

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-6346-2020

Date of Decision: March 06, 2020

Shamsher Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ankit Grewal, Advocate,
for Mr. Vaibhav Jain, Advocate,
for the petitioner.

RITU BAHRI, J. (ORAL)

Prayer in this petition, filed under Article 226 of the Constitution, is to quash/set aside the impugned result for the post of Multi Purpose Health Worker (Male) of Health Services, Haryana, which was declared and published on 05.06.2018 and 05.08.2018 (Annexure P-10 Colly) respectively, by the Haryana Staff Selection Commission. Further, a writ in the nature of mandamus has been sought commanding the respondents to decide the objections/representation, dated 02.03.2017 (Annexure P-7 Colly) made by the petitioner and to issue a fresh merit list/final result.

Brief facts of the case are that Haryana Staff Selection Commission-respondent No. 2 advertised 934 posts of Multi Purpose Health Worker (Male) (for short, 'MPHW (Male)' along with other posts in the Health Department, Haryana, under various categories, vide

Advertisement No. 1/2015, dated 19.06.2015. Petitioner being eligible applied for the post of MPHWS (Male) under Category No. 7.

Schedule of written examination was issued vide notices dated 28.10.2015 and 08.10.2015, and the written examination was scheduled for 25.10.2015 at Yamunanagar, which was later on cancelled vide notice dated 16.10.2015. On 24.10.2016 (Annexure P-5), a corrigendum was issued whereby the revised criteria for recruitment was notified and the last date for making applications was extended for those persons who could not apply earlier. Thereafter, written examination was held on 29.01.2017 at Yamunanagar, in which the petitioner participated under Roll No. 29701012. On 28.02.2017 (Annexure P-7 Colly), the answer key of the written examination was notified and objections were called by email, which could be filed within 3 days, i.e. upto 03.03.2017.

Feeling aggrieved, the petitioner filed his objections qua Question Nos. 04, 21, 44, 66 and 78, vide email dated 02.03.2017 (Annexure P-7 Colly). It is alleged that though a revised answer sheet was issued, however, the objections raised by the petitioner were not considered.

Result of the written examination was declared on 06.05.2018 and successful candidates were called for scrutiny of documents before interview. The petitioner being successful in the written examination, was also called for scrutiny of documents in the office of respondent No. 2, vide notice dated 24.05.2017. Thereafter interviews were held from 16.05.2018 to 19.05.2018, in which the petitioner also participated.

Final result for the post of MPHWS (Male), categorywise, was declared and published on 05.06.2018 and 05.08.2018 (Annexure P-10 Colly) respectively. The cut-off for the last selected candidate belonging to the General Category was 112 marks. However, the roll number of the petitioner did not appear in the final result.

Feeling aggrieved, the petitioner approached the office of respondent No. 2 for showing the marks obtained by him and other selected candidates and also moved an application dated 12.07.2019 under Right to Information Act, 2005, in this regard. In response thereto, vide letter dated 23.08.2019 (Annexure P-11), the petitioner was informed that he had secured total 109 marks, with breakup of 94 marks in written examination; 15 marks in viva-voce and 0 marks for experience.

Learned counsel for the petitioner argued that despite having raised objections by the petitioner qua Question Nos. 04, 21, 44, 66 and 78, vide email dated 02.03.2017 (Annexure P-7 Colly), the same were neither taken into account nor decided by the respondents and, thus, the final result is liable to be set aside on this score only. It is further submitted that if the objections raised by the petitioner were decided by respondent No. 2 and correct answer key was issued accordingly, the petitioner would have gained 5 more marks in the written examination, and total marks obtained by him are liable to be upgraded from 109 to 114. And, in this manner the petitioner comes in the category of selected candidates, for, the cut off marks of last selected candidate in the General Category are 112 marks.

I have heard learned counsel for the petitioner and gone through the paper book.

It is settled principle of law that having participated in the selection process, no person can agitate his/her grievance after remained unsuccessful. In the present case, the result of the written examination was admittedly declared on 06.05.2018 and successful candidates were called for scrutiny of documents before interview. The petitioner being successful in the written examination, was also called for scrutiny of documents, vide notice dated 24.05.2017, and thereafter interviews were held from 16.05.2018 to 19.05.2018, in which the petitioner also participated. Final result for the post of MPHWS (Male), categorywise, was declared and published on 05.06.2018 and 05.08.2018 (Annexure P-10 Colly) respectively, notifying the cut-off for the last selected candidate belonging to the General Category was 112 marks.

It is claimed that the petitioner has raised objections qua Question Nos. 04, 21, 44, 66 and 78, vide email dated 02.03.2017 (Annexure P-7 Colly), which according to him were not considered by the respondents. Had the petitioner was not satisfied with the revised answer key published by respondent No. 2, he could have espoused his grievance there and then. However, he chose to keep mum and participated in the further process of scrutiny of documents and even appeared in the interview/viva-voce. After having been unsuccessful, the petitioner cannot challenge the selection process at this belated stage. The cause of action, if any, had arisen in February/March, 2017 when answer key and revised

answer key were published by respondent No. 2, i.e. before declaring result of the written examination on 06.05.2018, and thereafter even final result for the post of MPHWH (Male), categorywise, was declared and published on 05.06.2018 and 05.08.2018 (Annexure P-10 Colly) respectively. Thus, no interference by this Court in exercise of extra ordinary jurisdiction under Article 226 of the Constitution is warranted.

Accordingly, the writ petition is dismissed.

(RITU BAHRI)
JUDGE

March 06, 2020

Pk Kapoor

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO