

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 11.02.2020

1. CWP No.12625 of 2014

Jaspreet Singh & anr.

...Petitioners

Versus

State of Punjab & ors.

...Respondents

2. CWP No.16593 of 2016

Davinder Pal Singh

...Petitioner

Versus

State of Punjab & ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Manjit Singh Uppal, Advocate,
for the petitioners in CWP No.12625 of 2014.

None for the petitioner in CWP No.16593 of 2016.

Ms. Devaki Anand Sullar, AAG, Punjab.

Mr. K.R. Dhawan, Advocate,
for respondents No.3 and 4.

Mr. Vinod Pundir, Advocate, for
Mr. Satbir Rathore, Advocate,
for respondent No.7.

None for respondents No.8 to 13.

AUGUSTINE GEORGE MASIH, J. (ORAL)

By this order I propose to decide CWP No.12625 of 2014 (Jaspreet Singh & anr. Vs. State of Punjab & ors.) and CWP No.16593 of 2016 (Davinder Pal Singh Vs. State of Punjab & ors.), where the petitioners have challenged the 40% cut off marks, which have been fixed by the official

pursuance to the advertisement (Annexure P-1) issued by respondent No.2 for the post so advertised without specifying the said criteria in the said advertisement or subsequently.

It is the contention of the learned counsel for the petitioners that the petitioners applied in pursuance to the advertisement(Annexure P-1) issued by the official respondents. The last date for on-line registration of the applications was 21.06.2013 and the fee could be deposited upto 25.06.2013. As per the decision taken as reflected in the official website, the short listed candidates (five times the number of posts) were to be called for interview on 20.09.2013 (Annexure P-5). The written test for the said interview was held on 04.08.2013 and after publication of the result, only five times the number of posts the candidates could be called for interview. The petitioners inquired into the matter and then came to know that 40% marks have been specified as cut off marks to be obtained by the candidates in the written test to be called for interview. This led to the petitioners approaching this Court when they were denied opportunity to participate in the interview for which 15 marks were fixed. He contends that neither in the advertisement, which has been issued by the respondents was there any indication with regard to there being any cut off marks fixed for interview nor there was any indication that subsequently such a decision would be taken. He, thus, submits that the decision, if any, taken by the respondents having not been published which related to the criteria of the selection, the same cannot sustain and selection on the basis of the said criteria deserves to be set aside. The petitioners having participated in the written test and scored 36 marks would be eligible for consideration for interview.

As regards to the reserved category candidates, learned counsel

for the petitioners states that the cut off marks, which is 40%, has been fixed for all categories irrespective of the category to which the candidate belong. No concession whatsoever has been granted to the reserved category candidates. However, in the subsequent selection process, 35% marks have been fixed for the reserved category candidates. He, therefore, contends that the reserved category candidates have also been denied the benefit of reservation. Prayer has, thus, been made for setting aside the selection and for commencing the selection process afresh from the stage of interview.

On the other hand, learned counsel for the State as well as the private respondents have submitted that the cut off marks of 40% were fixed by the Committee, which was duly constituted as per the cabinet decision regarding recruitment by the Selection Committee headed by the Chief Secretary. It is in this process that the whole selection was being carried out. It is asserted that the decision with regard to fixing cut off marks at 40% was based on the pattern of similar recruitment done by the Panjab University, Chandigarh for PUDA, Town & Country Planning, was taken in the meeting held on 23.07.2013, which was finally approved by the Chief Secretary, who was the Chairman of the Selection Committee. The proceedings of the meeting have been appended as Annexure R-2 with the written statement. It is contended that the said cut off marks were fixed prior to the written test, which was held on 04.08.2013 and therefore, it cannot be said that the decision with regard to fixing the cut off marks was an after thought, rather it was a conscious decision taken by the recruitment committee as formulated after deliberations on information having been received from the Panjab University, Chandigarh which related to the similar selections, as were being carried out. It is, therefore, asserted that uniform criteria was adopted by the

respondents for the particular recruitment in pursuance to the advertisement, which was issued. As regards the non-grant of any benefit to the reserved category candidates, it has been asserted by the learned counsel for the State that since no such decision has been taken by the Committee in this regard, the process was carried out as per the criteria which was laid down and it had been strictly adhered to. Prayer has thus been made for dismissal of the writ petition.

I have considered the submissions made by learned counsel for the parties and with their assistance have gone through the pleadings and the documents appended with the writ petition.

The facts as are culled out from the pleadings of the parties are that an advertisement (Annexure P-1) was issued by the official respondents for filling up various posts as detailed in the advertisement i.e. for the Research Officers, System Manager, Assistant Manager, Technical Assistant and District Technical Coordinators. As a matter of fact, the Research Officer was a different category and remaining five posts were technical posts. The posts of Research Officer were on contractual basis and the technical posts were on regular basis. The essential qualifications and experience were specified for the posts and benefit of reservation to the extent of age relaxation was specified therein. Fee concession was also granted to the reserved category candidates. It was specified and mentioned with regard to the procedure of selection in Clause 7. Even the weightage to be given to the written test and interview was mentioned to be 85% and 15% respectively. As per Clause 7 (v) of the procedure, it was mentioned that on the basis of the written test, the candidates qualifying the written test will be called for interview. It may be pointed out here that in the said advertisement, the

qualifying marks were not specified for a candidate to be called for interview. However, it was clearly mentioned that the candidates, who qualified the written test would be called for interview. It is and it appears to be in pursuance to this clause in the advertisement that the Selection Committee proceeded to fix the cut off marks for calling the candidates for interview. It is apparent from the proceedings dated 23.07.2013 of the Recruitment Committee (Annexure R-2) that decision was taken to fix 40% cut off marks on the pattern of recruitment done by the Panjab University, Chandigarh for PUDA and Town & Country Planning. It is clarified that the Panjab University, Chandigarh was to carry out the said recruitment process. The written test was held on 04.08.2013, which is a date subsequent to the cut off marks fixed by the Committee for calling the candidates for interview. It may not therefore be said that a decision has been taken by the Committee subsequent to the written test and criteria has been changed at a later stage. In fact, the process of selection, where the merits of the candidates were to be assessed, would start from the process of written examination, which was held on 04.08.2013, whereas the decision to fix 40% as qualifying marks for a candidate to be called for interview was fixed on 23.07.2013. The decision, therefore, as taken by the official respondents fixing the cut off percentage of marks for calling the candidates in interview cannot be said to be arbitrary nor would it amount to changing the criteria of selection especially when it was mentioned in the advertisement itself that the candidates who pass the written test would be called for interview.

As regards the contention of learned counsel for the petitioners that no benefit has been granted to the candidates, who are belonging to the reserved category, suffice it to say that the concession/relaxation was limited

to age and fee as mentioned in the advertisement and no decision has been taken by the Committee with regard to any other relaxation for the reserved category candidates. That cannot be said to be a flaw or illegality which would in any manner affect the selection. The decision which has been taken by the official respondents as per the advertisement issued later-on cannot be made basis to come to a conclusion that the decision of the Committee fixing the minimum 40% cut off marks is illegal in any manner.

In view of above, finding no merit in the present petition the same stands dismissed.

11.02.2020
monika

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No