

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 19.05.2020

1. CWP-14218-2014

Pooja Sachdeva and another

...Petitioner(s)

V/s.

Haryana Vidhan Sabha and others

...Respondent(s)

2. CWP-25829-2014

Gurpreet Singh

...Petitioner(s)

V/s.

Haryana Vidhan Sabha and others

...Respondent(s)

And

3. CWP-16862-2014

Priyanka

...Petitioner(s)

V/s.

Haryana Vidhan Sabha and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Naveen S. Bhardwaj, Advocate
for the petitioners in CWP-14218-2014.

Mr. Surmukh Singh, Advocate
for the petitioner in CWP-25829-2014.

Mr. N.S. Shekhawat, Advocate
for the petitioner in CWP-16862-2014.

Mr. Hitesh Pandit, Addl.A.G., Haryana.

Mr. R.K. Malik, Senior Advocate
with Mr. Sandeep Dhull, Advocate
for respondents No. 5, 8, 11, 12, 18, 20, 21
and 27 in CWP-14218-2014.

Mr. Akshay Bhan, Senior Advocate
with Mr. Akhilesh Barak, Advocate for
respondents No. 6, 7, 13 to 17, 19,
22 to 26, 28 to 31 in CWP-14218-2014
and for respondents No. 6, 7, 9, 12 to 17,
19, 22 to 24, 26, 28 to 31 in CWP-16862-2014.

RITU BAHRI, J.

This order shall dispose of three petitions bearing No. CWP-14218-2014, CWP-25829-2014 and CWP-16862-2014 having identical issue. However for the sake of convenience, the facts are being extracted from CWP-14218-2014.

The petitioners are seeking quashing of the result/selection of the private respondents who have been selected to the posts of Clerks on the ground of favoritism and partiality.

The brief facts of the case are that 12 posts of Clerks were advertised as per the advertisement dated 16.04.2013 (Annexure P-3). The petitioners have given details of their qualification as per the certificates attached alongwith writ petition (Annexure P-1 and Annexure P-2 colly). The certificates of petitioner No. 1, who is M.A and M.Phil are attached as Annexure P-1 collectively and the certificates of petitioner No. 2, who is M.B.A. with 76% marks are attached as Annexure P-2 collectively. Vide letters dated 17.01.2014 (Annexure P-4 colly), the petitioners were called for interview on 05.02.2014 alongwith their documents i.e. original degrees, diplomas and certificates. As many as 2636 candidates appeared for interview as per the information sought under Right to Information Act, 2005 (in short 'RTI'). The final result was declared on 20.05.2014 as per the RTI information given with respect to list of selected candidates (Annexure P-6). Against 12 posts of Clerks, 27 candidates have been selected. 22 persons selected were already working on 89 days basis and most of them were only graduates and undergraduates. Further out of the selected candidates, 17 candidates belonged to Gannuar in District Sonapat which happened to be the Constituency of the Speaker and 5 candidates

were from the Beri Constituency in District Jhajjar. Three candidates were from Pehowa Constituency. One was from Kaithal, who was close relative of Sh. Manohar Lal, Personal Assistant to Shri Harmohinder Singh Chattha, former Speaker, now Finance Minister in Government of Haryana, while one candidate was from District Karnal where Shri Kuldeep Sharma, incumbent Speaker resided.

Learned counsel for the petitioners is challenging the selection on the following grounds:-

1. That out of total 50 marks to be awarded to each candidate, there were two members in the Selection Committee and each member of the Committee has to award marks to the candidates out of 25 marks.
2. Very less time was given at the time of interview to the candidates.
3. Selection is biased as total 17 candidates have been selected from the constituency of one Speaker and of the former Speaker.

On notice, written statement dated 28.04.2015 has been filed on behalf of respondent No. 1 wherein it has been clarified that 12 posts of Clerks had been advertised and 27 persons were appointed against 19 regular posts and 8 persons were appointed against the posts/vacancies which were caused by the employees who had gone on deputation to other departments/organizations as also against the posts/vacancies caused due to promotions made on the higher vacant posts/vacancies which were not regular and the services of 8 persons were liable to be terminated as and when they joined this Secretariat or such persons are reverted, as the case may be. 8 such persons were appointed against the temporary vacancies. Names of 8 persons who were appointed against those vacancies are as

1. Smt. Sharmila Kumari
2. Shri Sunil S/o Shri Nasib Singh
3. Shri Ashok Kumar
4. Shri Jagat Singh
5. Shri Balihar Singh
6. Shri Munish Kumar
7. Shri Sarwan Kumar
8. Shri Rajinder Kumar

While appointing them, following condition was imposed:-

- a. That your above appointment is being against the posts/vacancies caused by the employees who have gone on deputation to other departments/organizations as also against the posts/vacancies caused due to promotions made on the posts/vacancies which are not regular and your services are liable to be terminated as and when they join this Secretariat or such persons are reverted, as the case may be.

A copy of the appointment letter dated 20.05.2014 of one of the above mentioned 8 persons is Annexure R-1. Thereafter on joining on the posts of the persons which were on deputation to other organizations, the services of the above mentioned 8 employees/respondents had been terminated on 01.04.2015 vide letters dated 01.04.2015. A copy of letter dated 01.04.2015 of one of above mentioned 8 persons is attached as Annexure R-2. As per the written statement filed, out of 27 persons, the Department had taken a decision to terminate services of 12 candidates. Hence, 15 persons are now working against 12 posts.

Learned counsel for the State has handed over the entire record of the selection process in the Court.

A perusal of the record shows that a decision had been taken on 04.04.2013 to advertise 12 posts of Clerk, one post of Hindi Typist, one post of Punjabi Typist and one post of Typist. Learned counsel for the State has further given original record of the selection process and contends that the Selection Committee constituting of two members had interviewed all the candidates and had given individual marks out of 25 marks and after adding the marks given by both the Committee members, the merit list had been prepared and appointment letters had been issued upto the merit of 27. The petitioners did not fall in the zone of consideration till 27 number and hence they had been rightly not given appointment letters.

Mr. R.K.Malik, learned counsel for private respondents No. 5, 8, 11, 12, 18, 20, 21 and 27, while referring to written statement, has also argued that when the posts were advertised in the year 2013 and interviews were taken in the year 2014, Dr. Raghbir Kadiyan was not the Speaker and the respondents No. 5, 8, 12, 18 and 27 who were belonging to Berry Constituency had no concern with the said selection and even if they belonged to his Constituency the selection cannot be taken to be tainted being vitiated on the ground of partiality. With respect to respondents No. 11, 20 and 21, that Mr. Harmohinder Singh Chattha was not the Speaker when the process of selection had started and even if these respondents were belonging to Constituency of Pehowa, he had no concern or any relation with any of the selected candidates. Even if some candidates who were already working on contract basis, had been selected, the selection process cannot be held to be arbitrary or discriminatory.

Mr. Akshay Bhan, learned counsel appearing for other private respondents has referred to the judgments of the Supreme Court passed in

the matters of *Madan Lal and another V/s. State of Jammu & Kashmir* 1995(3) SCC 486, *Sadananda Halo and others V/s. Mumtaz Ali Sheikh and others* (2008) 4 SCC 619 and the judgment of this Court passed in the matter of *Jarnail Singh V/s. State of Punjab* 1998(1) RSJ 586 in his written statement, to contend that when a selection process has been held, a roving inquiry on the factual aspect is not permissible and the Court cannot be put in a position to do fact finding inquiry at the instance of unsuccessful candidates. While referring to Rules of Haryana Vidhan Sabha Secretariat Service Rules, 1981 (Annexure R-1), he contends that as per Rule 7 it is the Speaker who has to make the Rules for selection to the post of Clerk which is a Group C post and he has authority to determine the criteria and manner of recruitment for appointment of this post and this process has been rightly followed. He has further referred to letter dated 19.02.2015 (Annexure R-2) whereby the employees working in Haryana Vidhan Sabha Secretariat are stated to be not employees of Government of Haryana. The criteria for the selection was laid down by the Speaker on 03.02.2014 and interviews were conducted from 05.02.2014 to 08.02.2014. Hence for all intents and purposes, the criteria had been laid down before the initiation of selection process and finally he has argued that from the record of the selection process it would be clarified that how the each member of the Committee had awarded marks out of 25 marks to a candidate at the time of interview.

Learned counsel for the petitioners has also referred to the judgments passed in *Deepak Kumar V/s. State of Haryana and others* 2017(4)S.C.T. 650 and *Jagbir Singh V/s. Haryana State Electricity Board* 1996 (1) S.C.T. 763 to contend that if selection criteria is never conveyed to the candidates, they were unable to bring the requisite documents for getting

marks and in this eventuality, the selection is liable to be quashed. He further referred to judgment passed in *Amit Arora and others V/s. Haryana Vidhan Sabha Secretariat and others* 2015(4) SCT 605 wherein for the post of Liaison Officer, the selection process was quashed on the ground that marks were not awarded by the members of the interview committee immediately after the interviews were conducted and this exercise had been done on a date when the recommendation was to be made.

Heard learned counsel for the parties.

Learned counsel for the State has handed over the entire record of the selection process in the Court, which consists of files relating to process of advertisement of vacancies in various newspapers, attendance list and marks awarded by each Committee to all the candidates. As per the official files, on 14.05.2014, a decision was taken to advertise 12 posts. Though 12 posts were advertised, however in the advertisement, it was mentioned that numbers of the posts were likely to increase or decrease. After advertisement, 14 posts became available due to promotion of Clerks to the posts of Proof Reader/Cashier/Assistant and promotions made against higher vacant posts/leave vacancies. One post of Clerk was duly created by the Government and the same was accepted by the Speaker as well. Hence 27 posts of Clerks were vacant and proposal was to fill up all the 27 posts through selection process. Hence this ground has already been taken in the preliminary submissions and it has been fairly explained that on the additional posts which became available on promotion, 8 candidates who were appointed vide appointment letters dated 20.05.2014 (Annexure R-1 of written statement of respondent No.1) with the condition that their services will be terminated when the employees who had gone on deputation will

come back and the services of 8 candidates had been terminated vide letters dated 01.04.2015 (Annexure R-2). With respect to 7 other employees, the process of terminating them was going on.

The only question now is for examining the selection process whether it was fair or not. From the official files, the marks awarded to the selected candidates are as under:-

Sr. No.	Name & address of the candidate	Roll No.	Marks obtained
1.	Shri Vikash Chand S/o Shri Ishwar Singh, Village Naya Bans PO Khubru, Teh. Ganaur, Distt. Sonapat	944	40/50
2.	Shri Sikender S/o Shri Bahadur Singh, VPO Purkhas Teh. Ganaur, Distt. Sonapat	1825	39/50
3.	Shri Mukesh Kumar S/o Hukam Singh, Village Sandal Kalan, Teh. & Distt. Sonapat	1538	38/50
4.	Shri Ramesh Kumar S/o Shri Randhir Singh, Village Tharu, PO Uldepur, Teh. & Distt. Sonapat	1045	38/50
5.	Shri Anil Kumar S/o Shri Lehna Singh # 62, VPO Ghasauli, Teh. Ganaur, Distt. Sonapat	1237	37/50
6.	Shri Rishi Pal S/o Shri Ram Kumar VPO Purkash Teh. Ganaur, Distt. Sonapat	1232	36/50
7.	Shri Sundeep S/o Shri Ram Chander Village Kami Teh. Ganaur, Distt. Sonapat	1823	35/50
8.	Shri Rishi Parkash S/o Shri Tej Parkash VPO Pugthala Teh. Ganaur, Distt. Sonapat	4054	34/50
9.	Shri Surjeet Singh S/o Shri Dalel Singh, Village Samaspur Gamra, PO Khubru Teh. Ganaur, Distt. Sonapat	2895	32/50
10.	Shri Vikas Rathee S/o Shri Jai Parkash # 295 VPO Purkash Rathee Teh. Ganaur, Distt. Sonapat	4724	31/50
11.	Shri Yogender S/o Shri Zile Singh, VPO Kailana Teh. Ganaur, Distt. Sonapat	4526	30/50
12.	Shri Rajdeep S/o Shri Mohender Singh, VPO Patti Brahman, Teh. Ganaur, Distt. Sonapat	3208	29/50
13.	Shri Sunil S/o Shri Anand, VPO Sanpera, Teh. Ganaur, Distt. Sonapat	2575	28/50
14.	Shri Ravinder Kumar S/o Shri Baljit Singh, VPO Sanpera Teh. Ganaur, Distt. Sonapat	2528	28/50
15.	Shri Inderjit S/o Shri Moji Ram VPO Siwana, Teh. Beri, Distt. Jhajjar	3287	27/50
16.	Shri Vikas Kumar S/o Shri Rishi Parkash, H. No. 246, Village Teha, Teh. Ganaur, Distt. Sonapat	4701	27/50

17.	Shri Keshav Dutt S/o Shri Jai Kishan, VPO Pugthala, Teh. Ganaur, Distt. Sonapat	4812	27/50
18.	Shri Sandeep S/o Shri Vakil Singh, VPO Anchla, Tehsil Ballha, Karnal-132040	1136	27/50
19.	Shri Bhushan Jain S/o Shri Ravinder Jain, H.No.223/11, Krishanpura, Ganaur, Distt. Sonapat	1952	27/50
20.	Smt. Sharmila Kumari D/o Shri Tulsi Ram, H.No. 920, Adrash Nagar, Naya Gaon, Mohali (Punjab).	479	26/50
21.	Shri Sunil S/o Shri Nasib Singh VPO Majra (B) Teh. Beri District Jhajjar	2297	26/50
22.	Shri Ashok Kumar S/o Shri Ram Phal, C/o Shri Ram Kumar, Pana Chulyan, Ward No. 4, Muda Wali Gali, VPO Beri, District Jhajjar.	1522	26/50
23.	Shri Jagat Singh S/o Shri Dalip Singh VPO Dhandlan, Tehsil Beri, Distt. Jhajjar.	477	26/50
24.	Shri Balihar Singh S/o Sh. Amrik Singh, V.P.O. Gumthala Garhu, Tehsil Pehowa, Distt. Kurukshetra.	2934	25/50
25.	Shri Munish Kumar S/o Shri Satish Kumar, Old Sabji Mandi, Main Bazzar, Kumaran Wala Mohalla, Distt. Kaithal	18	25/50
26.	Shri Sarwan Kumar S/o Shri Mamu Ram VPO Kakrala Gujran Teh. Pehowa, District Kurukshetra	4066	25/50
27.	Shri Rajinder Kumar S/o Shri Ram Savarup, VPO Bhateri District Kurukshetra	8	25/50

Against 19 regular posts, appointments were made and candidates at Sr. No. 20 to 27 were offered regular appointments with the condition as stated in their appointment letters (Annexure R-1 of written statement of respondent No.1). The record further shows that all the candidates were informed with respect to date of interview vide separate letters and one of the conditions to come for interview was that they should bring their original degrees, certificates, diplomas and testimonials with respect to their age etc. Calling letters dated 17.01.2014 of the petitioners are also attached as Annexure P-4 collectively. The relevant conditions are as under:-

iii) Original Degree, Diplomas, Certificates and testimonials may be brought with you in support of your qualification and age etc.

iv) If you are already employed, you should bring “No Objection Certificate” from your present employer to the effect that in the event of your selection for the aforesaid post, you will be relieved immediately. In case you fail to produce “N.O.C.”, you will not be permitted to appear for interview.”

Respondent No.1 has also produced the record showing the details of the marks given by each member of the Committee. The official file shows that interviews were conducted from 05.02.2014 to 08.02.2014. On 05.02.2014, Committee No. 1 awarded marks from roll No. 1 to 130, Committee No. 2 awarded marks from roll No. 131 to 260, Committee No. 3 awarded marks from roll No. 261 to 390, Committee No. 4 awarded marks from roll No. 391 to 520, Committee No. 6 awarded marks from roll No. 651 to 780, Committee No. 7 awarded marks from roll No. 781 to 910, Committee No. 8 awarded marks from roll No. 911 to 1040, Committee No. 9 awarded marks from roll No. 1041 to 1170 and Committee No. 11 awarded marks from roll No. 1301 to 1430. On 06.02.2014, Committee No. 1 awarded marks from roll No. 1431 to 1560, Committee No. 2 awarded marks from roll No. 1561 to 1690, Committee No. 3 awarded marks from roll No. 1691 to 1820, Committee No. 4 awarded marks from roll No. 1821 to 1950, Committee No. 6 awarded marks from roll No. 2081 to 2210, Committee No. 7 awarded marks from roll No. 2211 to 2340, Committee No. 8 awarded marks from roll No. 2341 to 2470, Committee No. 9 awarded marks from roll No. 2471 to 2600, Committee No. 11 awarded marks from roll No. 2731 to 2860. On 07.02.2014, Committee No. 1 awarded marks from roll No. 2861 to 2990, Committee No. 2 awarded marks from roll No.

2991 to 3120, Committee No. 3 awarded marks from roll No. 3121 to 3250, Committee No. 4 awarded marks from roll No. 3251 to 3380, Committee No. 6 awarded marks from roll No. 3511 to 3640, Committee No. 7 awarded marks from roll No. 3641 to 3770, Committee No. 8 awarded marks from roll No. 3771 to 3900 and Committee No. 11 awarded marks from roll No. 4161 to 4290. On 08.02.2014, Committee No. 1 awarded marks from roll No. 4291 to 4420, Committee No. 2 awarded marks from roll No. 4421 to 4550, Committee No. 3 awarded marks from roll No. 4551 to 4680 and Committee No. 4 awarded marks from roll No. 4681 to 4812.

The official files also show that both the members had given individual marks to each of the candidates and each page was signed by them. The official record further shows that at the time of interview, all the candidates who had appeared, had given their signatures on the attendance sheet and candidates who did not appear, the column of putting signature was blank. After going through the marks given by the Selection Committee which consisted of two members, the final marks of the Selection Committee was tabulated in a separate file by clubbing marks given by both the members and the final result was prepared out of 50 marks. Compiled result was signed by each member of the Committee as is evident from the official record. Hence, as far as the selection process is concerned, the Committee consisting of two members had given individual marks to each candidate out of 25 marks and after clubbing marks the result was prepared and on each paper of the result, the signature of Committee members were taken on 03.03.2014.

The grievance of the petitioners is that they were not told earlier to bring their requisite documents is liable to be rejected as at the

time of calling them for interview as per para Nos. iii) and iv) of the interview call letters dated 17.01.2014 (Annexure P-4 colly), they were asked to get their respective documents including N.O.C. if they are already employed and hence judgments cited by learned counsel for the petitioners in *Jagbir Singh's case (supra)*, *Deepak Kumar's case (supra)* and *Amit Arora's case (supra)* are not applicable to the facts of the present case as from the official record, it is abundantly clear that each member of the Selection Committee had given individual marks to each candidate out of 25 marks and after clubbing marks the result was prepared and on each paper of the result, the signature of Committee members were taken on 03.03.2014. Hence, there is no reason to give a finding that the marks had been awarded after the interviews.

With respect to the allegations of favoritism and partiality, reference at this stage can be made to a judgment passed by this Court in *CWP-15937-2008 titled Mukesh Bala V/s. State of Haryana and others*, decided on 05.03.2014 in which a Coordinate Bench was examining the selection for the post of Mutli Purpose Health Worker (Female) and the grievance of the petitioner therein was that the Selection Committee had given intentionally more marks to the candidates to whom they wanted to be selected and lesser marks had been given to those candidates whom the Selection Committee did not want to be selected irrespective of their academic marks. The Coordinate Bench rejected the argument of the petitioner that some of the selected candidates were related to respondent No. 4 who was member of the Commission. The Court held that merely because some of the selected candidates were related to member of the Commission i.e. respondent No. 4 cannot be a ground for setting aside the

selection because respondent No. 4 did not participate in the process of the selection and further the selection of respondent No. 4 as member of the Commission had taken place after the interviews were over. The Coordinate Bench, while referring to the judgment of the Supreme Court passed in ***Ashok Kumar Yadav V/s. State of Haryana***, 1993(4) RSJ 73 held that merely because some of the selected candidates were related to the member of the Commission, cannot vitiate the selection process or can be a ground for setting aside their selection.

Further the argument of the petitioners that in interview more marks had been given to the candidates who were favourites, is also liable to be rejected as the Supreme Court in the case of ***Ranjan Kumar V/s. State of Bihar and others*** 2014(3) S.C.T. 620 held that when the petitioner participated in the selection process knowing fully well the process, could not have resiled later on that the procedure adopted by the department was vitiated. In para 13, the Supreme Court observed as under:-

“13. the next submission which has been presented before us is that when the Respondents had appeared in the interview knowing fully well the process, they could not be resiled later on or taken a somersault saying that the procedure as adopted by the department was vitiated. In this connection, it is apt to refer to the principle stated in ***Om Prakash Shukla v. Akhilesh Kumar Shukla and Ors.***, 1986 (Supp) SCC 285, in the said case a three-Judge Bench, taking note of the fact that the Petitioner in the writ petition had appeared for the examination without protest and filed the petition only after he realized that he would not succeed in the examination, held that the writ Petitioner should not have been granted any relief by the High Court.

Further the Supreme Court in ***Sajeesh Babu V/s. N.K. Santhosh and others*** 2012 (12) SCC 106 was examining the selection for grant of LPG distributorship by the Bharat Petroleum Corporation Ltd. In this case, the Selection Committee was constituted to examine the applications and while challenging the selection no *mala fide* was attributed to any of the members of the Selection Committee and in this backdrop the Supreme Court held that it would normally be wise and safe for the Courts to leave the decision of selection of this nature to the experts who are more familiar with the technicalities/nature of the work and the Courts should be slow to interfere with the opinions expressed by the experts, unless there is any allegation of *mala fides* against the experts who had constituted the Selection Committee.

In the facts of the present case, the allegation of the petitioners is that the selected candidates belonged to Constituencies of the Speaker and of former Speaker. In the written statement filed by the private respondents, it has been clarified that even if some selected candidates belonged to the Constituencies of the Speaker and of the former Speaker, none of the selected candidates were related to them in any manner and merely because they belonged to their Constituencies cannot vitiate the selection process as held by the Supreme Court in ***Ranjan Kumar's case (supra)***. Moreover, there is no personal *mala fide* against the members of the Selection Committee. A perusal of the official record shows that both the members of the Selection Committee had awarded individual marks to each candidate out of 25 marks and they had signed the final result after clubbing the marks given by them on 03.03.2014. Hence, under no

circumstances, the selection cannot be vitiated on the ground of *mala fide* or biased as per the *Ranjan Kumar's case (supra)*.

Keeping in view above observations, writ petitions are dismissed.

19.05.2020
Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No