

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CWP-13871-2019 (O&M)
Date of decision: 09.03.2021

Amit

.....Petitioner

versus

Union of India and others

....Respondents

CORAM: Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Gunjan Mehta, Advocate
for the petitioner.

Ms. Puneeta Sethi, Senior Standing Counsel, Union of India,
for respondents No.1 to 3.

*(the aforesaid presence is being recorded through video conferencing since the
proceedings are being conducted in virtual court on account of restrictions due
to COVID 19)*

GIRISH AGNIHOTRI, J.

Petitioner-Amit, has filed the present petition *inter alia* with the prayer to quash the order dated 17.01.2019 (Annexure RA-1), passed by the Central Administrative Tribunal, Chandigarh (hereinafter referred to as 'Tribunal') and order dated 08.03.2019, passed in the Review Application by the Tribunal.

Petitioner herein, as an applicant, had filed OA No.060/00064/2017 *inter alia* with a prayer to direct the respondents to consider and appoint the applicant to the post of MTS (Multi Tasking Staff) (non-technical) in UT, Chandigarh. It was also prayed that directions be issued to the respondents to decide the claim of the applicant raised in the

Legal Notice dated 02.02.2015 (Annexure A-8).

On 23.05.2019, this Court had issued notice of motion. In response thereto, the respondents have filed a short reply dated 04.03.2021, by way of an affidavit of Shri Harish Kumar, Assisting Director, Staff Selection Commission, North Western Regional Office, Kendriya Sadan, Sector 9, Chandigarh.

We have heard learned counsel for the parties.

For the facts and reasons noticed and recorded hereinunder, we are of the considered view that writ petition lacks merit and is accordingly dismissed.

Learned counsel for the petitioner based on pleadings in the petition, has *inter alia* submitted that vide advertisement dated 16.11.2013 (Annexure A-1), the respondents had initiated the process for recruitment to the post of Multi Tasking Staff (non-technical) in different states and union territories. It is submitted that for UT, Chandigarh, the vacancy position was approximately as 16 posts. There were seven posts for General Category, to which the petitioner belongs. The petitioner appeared in Paper I on 16.02.2014 and in the result so declared, the petitioner was declared successful in Examination of Paper I (with total marks as 111.50). It is the specific case of the petitioner that vide letter dated 18.07.2014 (Annexures A-3/A-4), Staff Selection Commission had fixed the respective cut off marks category wise for respective states, for calling candidates of North West Region for Paper II of the examination. In this, the cut off marks for UT, Chandigarh under General Category, was 93, whereas, cut off marks for

Haryana was 113.75. The petitioner further submits that he was included in the short-listed candidates on the basis of his total marks as 111.50. The petitioner was then declared successful in Paper II. Importantly, Paper II was qualifying in nature. Vide letter dated 24.09.2014 (Annexure A-5), the petitioner was provisionally short listed for document verification. The petitioner appeared before the authority concerned and his documents were verified by the respondents.

The grievance of the petitioner is that when on 20.10.2014, final list of selected candidates along with vacancy position was issued, the name of the petitioner did not find mention in the list. It is submitted that last selected candidate for General Category had secured 107.25 marks in Paper I, but, the petitioner who secured 111.50 marks was not included in the list of candidates for Chandigarh (UT). It is the case of the petitioner that he submitted a representation on 11.11.2014 and followed by Legal Notice dated 02.02.2015, but, no response was received.

Learned counsel for the petitioner in support of his contention firstly makes reference to internal page 8 of the Staff Selection Commission notice containing of 'Common Instructions to Candidates'. It is submitted that under the Column 7 Chandigarh State was assigned Code as 28 and State of Haryana was assigned Code as 30. Learned counsel then makes reference to the print out of online application from of the petitioner. Column 1 and Column 1.1 is reproduced hereunder:-

1. Name of the State/UT	Haryana	1.1	State/UT Code	28
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Based on the above, the first contention of the petitioner is that

against Column 1.1 he had specifically written code 28 so as to declare his State/U.T. as Chandigarh with 28 as Code. By referring to Para 22(i) of the petition, learned counsel submits that in fact the petitioner in the online application form, had actually and specifically mentioned State/U.T. Code 28. It is claimed by him that action of the respondents in changing his State from UT Chandigarh to Haryana at the time of document verification, is not permissible.

Learned counsel for the petitioner secondly submits that in Column 2 of the online application form, he had chosen the center to be Chandigarh as name of the Center and had also mentioned 1601 as Center Code, Column 2 and 2.1 are reproduced hereunder:-

2. Name of Center	NWR-Chandigarh (1601)	2.1 Center Code:1601
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Learned counsel by making reference to Annexure A-2, submits that the petitioner was shown to have secured 111.50 marks in Paper I. He then makes reference to the notice issued by Staff Selection Commission dated 18.07.2014, wherein, it was mentioned that based on performance in Paper I and keeping in view the tentative vacancies in each State, Commission has fixed the following cut off, category wise for calling candidates of North West region for Paper II of the examination. He submits that for State Code 28 (Chandigarh) for the unreserved category the cut off marks were 93. It is submitted that for State Code 30 (Haryana) cut off marks were 113.75. The argument therefore of the learned counsel for the petitioner is that once the petitioner had secured 111.50 marks and at document Annexure A-2 State Code was mentioned as 28 (Chandigarh) the

petitioner was actually considered under Chandigarh State Code and was accordingly declared successful for appearing in Paper II. Had he been considered under Haryana State with 111.50 marks, he would not have been allowed to appear in Paper II because, for Haryana, the cut off marks were 113.75.

Learned counsel for the petitioner forthly submits that after 18.07.2014, the petitioner appeared in Paper II which was qualifying in nature. The specific case of the petitioner is that he passed the qualifying exam i.e. Paper II. Vide letter dated 24.09.2014 (Annexure A-5) the petitioner was informed that he has been provisionally short-listed for 'document verification'. He was directed to appear on 30.09.2014 before the Authorities at Chandigarh. The petitioner appeared on the said date and his documents were also verified by the respondents. The grievance therefore of the petitioner is that inspite the documents having been verified, when on 20.10.2014 final select list was issued, the petitioner's name did not figure amongst the selected candidates. It is submitted that in the final select list last candidate for the General Category, whose name figured in the final select list, had secured 117.25 marks in Paper I for State/UT-Chandigarh, whereas, the petitioner had secured 111.50 marks.

Counsel for the petitioner fifthly contends that the petitioner immediately submitted representation on 11.11.2014 (Annexure A-7) and also served a legal notice on 02.02.2015 (Annexure A-8). Vide letter dated 16.10.2015, his plea that his case should be considered for final selection for Chandigarh under unreserved category, was considered and it was

noticed that on observing that there is difference in handwriting and left thumb impression obtained at various stages of examination, he was directed to attend the office on 28.10.2015, to submit reasons for difference in handwriting, signatures, left thumb impression (LTI) and give samples in this regard. By making reference to document dated 03.11.2015, learned counsel submits that the petitioner had submitted the sample signatures and reasons as desired which was forwarded to The Director, Central Forensic Science Laboratory, Chandigarh by Assistant Director, Staff Selection Commission, Chandigarh. It is the case of the petitioner that although he had filed ***OA No.060/00702/2016 titled as Amit vs. Union of India and others***, but, the same was withdrawn as the petitioner had not appended the CFSL report. The petitioner thereafter applied under RTI for CFSL Report. But without providing the CFSL report it was conveyed to him that as per CFSL report his case is clear. He was then constrained to file OA No.060/00842/2016 He was then again constrained to file OA-060/0064/2017, which has been dismissed vide order dated 08.03.2019 (the impugned order (Annexure P-2) in the present writ petition).

It is then contended by learned counsel for the petitioner that in somewhat similar circumstances the Central Administrative Tribunal Chandigarh Bench, Chandigarh, had decided an OA vide order dated 11.07.2017 (Annexure R-3), whereby, the applicant therein was directed to be considered by the respondents for Chandigarh and offer him an appointment. He submits that CWP-27343-2017 filed by the Staff Selection Commission Chandigarh (NWR) was also dismissed vide judgment dated

28.02.2019 (Annexure P-7).

Learned counsel for the respondents submits that a short reply by way of an affidavit of Harish Kumar, Assistant Director, Staff Selection Commission, North Western Regional Office, Kendriya Sadan, Sector 9, Chandigarh, has been filed.

In the reply it has been inter alia submitted that the applicant/petitioner herein, had the option to choose any State for which he or she wishes to apply. It is the case of the respondents that the petitioner had consciously opted for selection for the State of Haryana, but, had filled in the Code of UT i.e. 28 in Column 1.1 of the online application form. It is then the case of the respondents that the said confusion/error was corrected/modified by the applicant at the time of online document verification, when he again opted for selection for the State of Haryana. It is further submitted that the petitioner corrected the State/UT Code from 28 (Chandigarh) to 30(Haryana) under full consciousness in online document verification. Paragraph Nos. 4 and 5 of the short reply, are reproduced hereunder:-

“.....4. The applicant had submitted single online application and filled his option of State as Haryana in Col.1 of the online Application Form but he filled code of the opted State as 28 i.e. Chandigarh in Col 1.1 of the Application Form (Annexure R-1). At the time of Online Verification of date, the petitioner again opted his State of Selection as Haryana and also filled correct State Code i.e. 30 meant for Haryana as per Para No.7 of the Notice of Examination. It is further stated that at the time of filling of data on online verification system, he had given

Undertaking that “The above data is checked by undersigned and found correct. The preference of post/Department as mentioned above has been filled online and exercised by me carefully. The same may be treated as final.” Accordingly, the result of the applicant was declared considering his opted state as Haryana State. The petitioner could not get final selection due to the reasons that he was low in merit and cut-off marks of the last selected General Category (UR) candidate for Haryana State was 120.25 whereas the petitioner secured 111.50 marks in Paper I. It is pertinent to mention that vacancies in MTS(NT) Exam-2014 were State wise and candidates were considered only for the State/UT they opted.

5. That it is wrong to state that the controversy involved in the instant Civil Writ Petition is squarely covered by the judgment dated 28.02.2019, passed by this Hon'ble Court in CWP No.27343 of 2017. In CWP No.27343 of 2017, candidate Sh. Amit Roll No.1601503528 had filled name of State/UT as Chandigarh in Col. 1 and State/UT code as 28 i.e. Chandigarh in Col. 1.1 of the offline Application Form (Annexure R-2) as per Para No.7 of the Notice of Examination and accordingly he was selected against the vacancies for Chandigarh.”

From the above, it is further evident that the respondents with a short reply, have appended the online application form of the petitioner herein as Annexure R-1, to show that the petitioner had filled the State option as Haryana at the time of verification of the documents. They have also appended the application form of another applicant named Amit, but with different father's name as Chaman Lal who was applicant in CWP-27343-2017. Based on the two documents it is submitted by learned

counsel for the respondents that in fact, the petitioner herein cannot take the benefit of the judgment dated 28.02.2019 (Annexure P-7).

Lastly it is also the positive case of the respondents that in fact as per Column 10 of the 'Common Instructions to the Candidates' in the case of a single application (as was in the present case) the option so given for the State/UT shall be treated as final. The above said Column 10 is reproduced hereunder:-

.....“10. Only a single application will be entertained for each State/UT. IN CASE OF MULTIPLE APPLICATIONS FOR ON-LINE APPLICATION, THE LAST APPLICATION FOR WHICH PART-I AND PART-II REGISTRATION HAVE BEEN COMPLETED WILL BE ACCEPTED. FOR OFF-LINE APPLICATIONS, THE REGIONAL DIRECTOR/DEPUTY DIRECTOR AT HIS/HER DISCRETION, WILL ACCEPT ONLY ONE OF THE APPLICATIONS..

Candidates intending to apply for the post in more than one State/UT should submit separate applications for each State/UT to the Regional Office having jurisdiction over such State/UT.”

We have given thoughtful consideration to the respective submissions made by counsel for the parties. However, we are inclined to accept the submissions made by learned counsel for the respondents. Firstly it has specifically been stated in the short reply that the confusion so created by writing Sr.No.28 (meant for Chandigarh) in Column 1.1 of the application form, was corrected/modified by the applicant, at the time of online verification of document, when he again opted for selection for the State of Haryana (*emphasis added by us*). Therefore once the petitioner had at the stage of online verification of documents himself opted for selection

for the State of Haryana, he cannot be allowed to change his option. Now, when he find himself low in merit and cut off marks of the last selected candidate for State of Haryana, which was 120.25, whereas the petitioner secured 111.50 marks in Paper I, the petitioner cannot claim himself as selected.

Secondly we are also in agreement with the submissions of learned counsel for the respondents that as per Column 10 of Staff Selection Commission Notice for 'Common Instructions to Candidates', each candidate was to submit application separately. In case the candidate wanted his case to be considered for more than one State the candidate was required to fill multiple Applications. In the present case it is not disputed that the petitioner had only submitted a single application and at the stage of online verification of documents, he had himself opted for selection for the State of Haryana. He therefore was rightly considered as a candidate for the State of Haryana. Thirdly, this Court also finds force in the contention of learned counsel for the respondents that the petitioner cannot claim that his case is covered by the judgment dated 28.02.2019 in CWP-27343-2017. In that case, the applicant Amit (with father's name Chaman Lal), had as evident from Annexure R-2 submitted and opted for State/UT as Chandigarh against Column I and had also filled against Column 1.1 State/UT Code as 28. Therefore, there being clear distinction on facts, the petitioner cannot take the benefit of said judgment.

For the reasons as aforementioned, this Court finds no infirmity in the orders dated 17.01.2019 (Annexure P-1) and 08.03.2019

(Annexure P-2), passed by the learned Central Administration Tribunal,
Chandigarh Bench, Chandigarh.

Accordingly, the present writ petition is dismissed.

No order as to costs.

(JASWANT SINGH)
JUDGE

(GIRISH AGNIHOTRI)
JUDGE

09.03.2021
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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No