

112 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-19129-2021
Date of Decision: 23.11.2021

JITENDER AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Inder Pal Goyat, Advocate
for the petitioners.

Ms. Rajni Gupta, Addl. A.G., Haryana.

Mr. Kanwal Goyal, Advocate
for respondent-Commission.

ARUN MONGA, J. (ORAL)

Petition, herein, is for issuance of a writ in the nature of *certiorari* quashing the final result of selection for the posts of Horticulture Development Officer (Annexure P-3) dated 12.10.2020, pursuant to Advertisement No.5(xiii) dated 29.12.2018.

2. Learned counsel for the petitioners submits that the impugned criteria of selection (Annexure P-4) for the post of Horticulture Development Officer pursuant to said advertisement was never published at any stage prior to the declaration of final result of selection in question and it came to the knowledge of the petitioners only when the same was put on the website of respondent No.3. Learned counsel further submits that by fixing 6 marks for M.Sc., even candidates having 100% marks in B.Sc., which is the essential qualification, stand no chance of selection in front of a candidate having M.Sc. degree.

3. Having heard the arguments, I am of the view that the petitioners having participated in the process of selection, but remaining un-successful have merely taken a chance once again before this Court as fence sitters to challenge the criteria of selection. The same has already been gone into by judgment rendered in CWP-22531-2020 by learned Single Bench. Speaking for this Court, my learned brother Anil Kshetarpal, J., opined as below :-

“ xxxxxxxxxx This Bench has analyzed the arguments of learned counsel for the parties and is of the considered view that the decision of the Selecting Body to award 6 additional marks to the candidates possessing higher qualification cannot be said to be arbitrary. No doubt, as per the recruitment notice and Service Rules, a candidate is required to possess a degree in B.Sc. Agriculture (Hons.) with Horticulture as one of the subjects or a degree in B.Sc. Horticulture, from any recognized University. However, while assessing the merit of the candidates, the Selecting Body has to work out a way and manner to select the candidates. In the present case, a transparent criteria was adopted for allocating the marks at the time of interview. The aforesaid transparent criteria has been published. On careful examination thereof, this Bench does not find that the chosen criteria is patently perverse or arbitrary. This criteria has been adopted uniformly. It is well settled that the scope of judicial review in such matters is limited. Hence, no ground to issue the writ as prayed for is made out.

Dismissed.”

The above findings of learned Single Judge were also challenged by way of an Intra-Court appeal and have been duly upheld by making the following observations :-

“ The appellant has no legal vested right to claim the benefit of additional marks on account of having higher qualification of M.Sc. Agriculture and only has a right of consideration and therefore, he cannot, as such, press forth his case in the absence of any discrimination. It is also to be noticed that the result was declared on 12.10.2020 (Annexure P-1) in which the name of the appellant did not figure. Thereafter, he had initiated the litigation after having taken the chance in the selection process and after sitting in the interview process. Representation dated 10.10.2020 (Annexure P-9) was filed and the writ petition was preferred once the appellant came to know that a higher criteria has been prescribed.

*In the response filed by the Commission, it has been mentioned that the petitioner has got 56.515 marks and the last candidate had secured 58.995 marks. It is, at that stage, the appellant chose to raise this bogey of higher qualification, having been prescribed to his disadvantage. It has time and again been held that if a candidate takes a chance, he cannot challenge the prescribed criteria of the selection process. Reference can be made to **Om ParkashShukla Vs. Abhinash Kumar Shukla 1986 AIR (SC) 1043, MadanLal& another Vs. State of Jammu & Kashmir and others 1995(3) SCC 486, ChanderParkashTewari& others Vs. ShakuntlaShukla& others 2002 (3) SLJ 88, Devki Nanda Sharma Vs. State of Haryana & others 2002(1) RSJ 64 and Ajay Kumar Verma Vs. State of Haryana 2010(1) RSJ 245**. In such circumstances, the appellant was precluded to raise challenge to the criteria fixed subsequently, having taken a chance and not made the cut. Even otherwise, this Court is of the opinion that the criteria was fixed at the relevant time when the next stage of the selection process was to take place, which was never challenged. Neither any facts have been pointed out or placed on record that the criteria was changed adversely, by which, the principle of changing the rules once the game had started would come into place.*

Resultantly, in view of the above discussion, finding no merit in the present appeal, the same is dismissed in limine.”

No grounds to interfere are made out.

Dismissed.

November 23, 2021

gurpreet

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No