

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.22531 of 2020(O&M)

Date of Decision: 20.04.2021

Kapil

...Petitioner

Versus

Haryana Public Service Commission and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Kanwal Goyal, Advocate
for respondent no.1 to 3.

ANIL KSHETARPAL, J.

On 15.02.2021, the arguments were heard and the judgment was reserved.

Thereafter, on 17.02.2021, the writ petition was directed to be re-listed for hearing with the following order:-

“The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

Through this writ petition filed under Article 226/227 of the Constitution of India, the petitioner prays for the following substantive reliefs:-

“(b) Certiorari, thereby quashing of the impugned result dated 12.10.2020 (P-1), decided by the respondent no.2 vide which 12 candidates has been selected for the post of Horticulture Development Officer (Class-II) under the Category of BC-A of Haryana by giving them undue advantage of their Masters Degree under the head of personal achievement which was not even the

eligibility criteria in the advertisement dated 29.12.2018 and the rules of Haryana (Group-C) Service Rules, the action being illegal, unjust, unconstitutional, arbitrary and therefore, is liable to be set aside in the interest of justice and fair play.

(C) Mandamus, for directing the respondent No.2 to give the benefit of 06 marks to the petitioner as well as to treat all the candidates having M.Sc. in Agriculture equally in the interest of justice and fair play.

(d) Mandamus, for staying the selection/recruitment process initiated by the respondents for the post of Horticulture Development Officer (Class-II), the same being illegal and arbitrary;

(e) Mandamus, thereby directing the respondents to reserve one post of Horticulture Development Officer (HDO) for the petitioner till the final outcome of the present writ petition.”

After having heard learned counsel for the parties, this court is of the considered view that the question which arises for determination is “whether a State Public Service Commission in absence of the service rules to the contrary can award certain additional marks for higher education in the subject while making selection?”

Some facts are required to be noticed.

The Haryana State Public Service Commission (hereinafter referred to as 'the Commission') issued a recruitment notice inviting applications from eligible candidates for recruitment to 96 posts of Horticulture Development Officer (Class-II).

In the advertisement, it was notified that 12 posts are reserved for BC-A category restricted to residents of the State of Haryana. As per the recruitment notice, the candidates with the following qualifications were eligible to apply:-

“Essential qualification:

(c) Degree in B.Sc. Agriculture (Hons.) with Horticulture as one of the subjects or B.Sc. Horticulture, from any recognized university;

(d) Knowledge of Hindi/Sanskrit upto Matric Standard or Higher Education.”

It is not in dispute that the essential qualifications are as per Haryana Horticultural (Group-C) Service Rules, 1998. The petitioner and certain others applied. The petitioner possesses B.Sc.

Agriculture(Hons.) with Horticulture as one of the subject. He has also passed Masters in Agronomy. He also possess work experience of 2 years.

The grievance of the petitioner is that the Commission has awarded 6 additional marks to the candidates possessing Masters Degree in Horticulture.

On 18.01.2021, the following order was passed:-

“Hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

In compliance with the order dated 23.12.2020, Sh. Kanwal Goyal, Advocate, enters appearance on behalf of Haryana Public Service Commission and states that the petitioner was awarded total 56.515 marks, whereas, last selected candidate Randeep Singh got 58.995 marks. He further informed the Court that Randeep Singh was not awarded any additional marks for the subject of M.Sc. (Horticulture).

Learned counsel for the petitioner contends that the Haryana Public Service Commission has awarded six additional marks for M.Sc. (Horticulture) which is neither the part of the advertisement nor the Service Rules. He contends that in absence of enabling power in the rules, the Haryana Public Service Commission could not award additional marks on its own. He further contends that the criteria for grant of marks was not published.

Notice of motion.

On the request of this Court, Sh. Kanwal Goyal, Advocate, accepts notice and prays for time to file reply.

Reply, if any, be filed before the next date of hearing with a copy in advance to counsel for the petitioner.

List on 15.02.2021, for arguments.”

The respondent-Commission filed its detailed written statement. It has been pleaded that the Service Rules prescribe the essential qualification and the respondent-Commission is well within its right to formulate its own criteria, particularly, when the rules are silent. It is further pleaded that in the present case, the respondent adopted a fair and transparent criteria before making selection. The criteria as adopted has been spelled out in Annexure R-3/1, which is extracted as

under:-

“The HPSC lays down the following criteria for the post of Horticulture Development Officer (Class II) in the Horticulture Department, Haryana.

Total Marks : 100
 (a) Written Test : 50
 (b) Academic Qualifications/ Personal achievements : 37.5

Matric	Over 80	5
	70 to 79.99	4
	60 to 69.99	3
	50 to 59.99	2
	45 to 49.99	1

10+2	Over 80	5
	70 to 79.99	4
	60 to 69.99	3
	50 to 59.99	2
	45 to 49.99	1

B.Sc. Agriculture (Hons.) with Horticulture as one of the subjects OR B.Sc. Horticulture.	Over 60	10
	55 to 59.99	8
	50 to 54.99	6
	45 to 49.99	4

Consistency:

60% and above in any two (Matric, 10+2 and Graduation)	5
55% and above in any two (Matric, 10+2 and Graduation)	4
50% and above in any two (Matric, 10+2 and Graduation)	3

M.Sc. Horticulture	60 and above	6
	55 to 59.99	4
	50 to 54.99	2

Experience in Horticulture development work:	Half mark for every one year experience subject to a maximum of 1½ marks. Fraction of a year will not be counted.
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M.Phil	1½
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Ph.D	2½
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Sports	1
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Any candidate who won a medal in the Asian Games, Commonwealth Games or Olympic Games

Viva Voce 12.5 marks”

Learned counsel for the petitioner contends that the Commission had no jurisdiction to award

additional 6 marks to the candidates possessing M.Sc. (Horticulture). He further submitted that the selection criteria has been changed after the selection has started and, therefore, the selection of the respondent is liable to be set aside.

Per contra, learned counsel appearing for the Commission has contended that there is no change in the criteria.

It is apparent from the reading of the writ petition that the written examination was held on 27.01.2020. Whereas the criteria (Annexure R-3/1) laid down by the Haryana Public Service Commission is dated 06.10.2020.

In such circumstances, the respondents are required to explain whether there was any criteria adopted by the Commission before 27.01.2020, the date on which the written examination was held.

Hence, list this matter for re-hearing, on 03.03.2021.”

Pursuant to the aforesaid order, an additional reply has been filed by the Secretary, Haryana Public Service Commission. It has been pointed out that the scheme/criteria for examination and syllabus was published on 11.09.2021 and a day before the interview was to be held, the Selecting Body took a decision to adopt a criteria for allocating marks in the interview.

This Bench has once again heard learned counsel for the parties at length.

Learned counsel for the petitioner reiterates the arguments as noticed in the order dated 17.02.2021. 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.

20th April, 2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO