

Kamlesh Devi and others

.....Petitioners

versus

Haryana Staff Selection Commission and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** None for the petitioners.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari seeking to quash the selection list of Multi Purpose Health Workers (Female) dated 17.06.2001 (Annexure P-3) published by the Haryana Staff Selection Commission.

2. A perusal of the pleadings/records reveals that the argument of the petitioner is two fold; Firstly, that 50% marks had been kept for viva-voce which is arbitrary and secondly, that candidates even without any experience and/or having lesser academic qualifications have been selected.

2. Petition was filed in the year 2001 and has been lying admitted ever since. When taken up for final adjudication, there is no representation on behalf of the petitioners. It seems that by sheer effluxion of time and pendency of the writ petition for more than 21 years before this Court, the petitioners seem to have lost interest in pursuing the same.

3. In any case, from a perusal of record/pleadings, it appears that even on merits, claim of the petitioners is not admissible in view of the stand taken in the reply filed by respondent No.1.

4. Learned State counsel has canvassed arguments on similar lines as per the defense taken in written statement.

5. I am in agreement with the stand taken by the respondents. Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.

6. It has been settled by the Hon'ble Supreme Court in *Anzar Ahmed Vs. State of Bihar reported as 1994 (1) RSJ 557*, that viva voce marks may account for up to 50% of the total score and the same is reasonable when a selection is made only by way of interview i.e. academic achievement and viva voce test. The Staff Selection Commission in the impugned selection had adopted a criterion whereby 50 marks were allocated for basic and essential and higher qualifications and 25 marks were allocated for viva voce. In the said criteria, no marks were prescribed for experience gained, if any. Therefore, the decision of the commission in prescribing 25 marks for viva voce doesnot suffer from any infirmity. Admittedly, all the candidates were called for an interview. Moreover, Respondent Commission is fully competent to lay down the criteria for selection.

7. Perusal of the reply filed by respondent No1-Commission reveals that petitioner No.6 scored 40.46 marks against the last selected candidate, who scored 45.89 marks in SC-A category. Likewise, petitioner No.7, scored lesser marks i.e. 43.06 as against the last selected candidate scored marks i.e. 46.22 in BC-A category. The remaining petitioners did not even make the cut as the last selected candidate in General Category secured i.e. 47.69 marks. Moreover, respondents No. 4 and 5, whose selection is under challenge secured more marks i.e. 48.47 and 48.35 marks as against the last selected candidate in General category.

8. Apart from that, the Hon'ble Supreme Court in *Dalpat Abasaheb Solunke Vs. Dr. B.S.Mahjan* reported as *AIR 1990 SC 434* has observed that it is not the function of the Court to scrutinize and evaluate the relative merits of the

candidate. It is also not for this court to hear appeals over the decision of the selection committee except when such a decision suffers from patent illegality or *malafides*, so as to vitiate the selection altogether. The relevant observations are reproduced hereinbelow for ready reference:

“It is not the function of the Court to hear appeals over the decisions of the Selection committee and to scrutinize the relative merits of the candidates. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted selection committee which has the experience on the subject. The court has no such expertise. The decision of the selection committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the committee or its procedure vitiating the selection or proved malafide affecting the selection etc. It is not disputed that in the instant case, the University had constituted the committee in due compliance with the relevant statute. The committee consisted of experts and it selected the candidates after going through all the relevant materials before it. Therefore, setting aside the selection on the ground of so called comparative merits of the candidates, as assessed by the Court while sitting in appeal over selection so made would not be permissible.”

9. In the overall premise, I see no irregularity of any kind committed by the competent authority in passing the impugned selection list which requires any judicial intervention. The same is accordingly, upheld.

10. In view of the aforesaid, no grounds are made out to interfere.

11. Dismissed.

(ARUN MONGA)
JUDGE

July 13, 2022

vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No