

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**C.M. No. 1541-CWP of 2022 in/and
CWP No. 9590 of 2021
Date of decision: 09.02.2022**

111/2+217/2

Om Parkash

....Petitioner(s)

Versus

Central Administrative Tribunal, Chandigarh Bench and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Kshitij Sharma, Advocate,
for the petitioner.

Mr. D.S. Nalwa, Addl. A.G., Haryana,
for respondents No.2 and 3.

Mr. Govind Tanwar, Advocate,
for Mr. Kanwal Goyal, Advocate,
for respondent No.4.

Ms. Alka Chatrath, Advocate,
for the applicant-respondent No.5.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 1541-CWP of 2022

Application for placing on record affidavit on behalf of UPSC is
allowed, subject to all just exceptions.

Affidavit filed on behalf UPSC is taken on record.

C.M. stands disposed of.

CWP No. 9590 of 2021

The present writ petition has been filed under Articles 226 and 227
of the Constitution of India for setting aside the order dated 16.04.2021

(Annexure P-15) passed by the respondent No.1-Central Administrative

Tribunal, Chandigarh Bench whereby, the original application filed by the petitioner had been dismissed.

The grouse of the petitioner as such was summarized in the order dated 22.12.2021 which reads thus:-

“Application has been filed for directing the respondents to interview the applicant-petitioner on the scheduled dates of interview which is going to be held on the 27th and 28th December, 2021 as per the communication dated 13.12.2021 (Annexure A-1), which has been addressed to the Chief Secretary, Government of Haryana (respondent No.2 herein) by the respondent No.5-UPSC.

Notice in the application.

Mr. D.S. Nalwa, Addl. A.G., Haryana accepts notice on behalf of respondents No.2 and 3; Mr. Balvinder Sangwan, Advocate accepts notice on behalf of respondent No.4-HPSC and Ms. Alka Chatrath, Advocate accepts notice on behalf of respondent No.5-UPSC.

The benefit of interim relief has been strongly opposed by counsel for the State and counsel for respondent No.5 mainly on the ground that the Central Administrative Tribunal, vide its order dated 16.09.2021, has dismissed the original application by noticing that there is an FIR bearing No. 20 dated 27.07.2013 registered against the applicant-petitioner under Sections 201, 409, 420, 467, 468, 471 and 120-B IPC read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (in short 'the P.C. Act'). Counsels for respondents have accordingly submitted that under the Indian Administrative Service (Recruitment) Rules, 1954, the recruitment is to be done to the service of any person of outstanding ability and merit in connection with the affairs of the State who is not a member of the State Civil Service of that state but who is holding a gazetted post in substantive capacity. It is, thus, submitted that once there was an FIR as such lodged against the applicant-petitioner under the P.C.

Act, the cancellation of his integrity certificate on 09.11.2020 was justified.

Counsel for the applicant-petitioner, on the other hand, submitted that the FIR was lodged on 27.07.2013 and a cancellation report was filed on 12.02.2017. The cancellation proceedings are pending before the Trial Court and notice was issued to the complainant on 12.10.2017. It is submitted that no departmental proceedings have also been initiated against the applicant-petitioner since then. It is pointed out that in pursuance of the Advertisement No. 1 dated 20.06.2020 (Annexure P-1) for the 5 posts of IAS of Haryana Cadre from Non-SCS Officers of the 2019 Select List, the petitioner had applied and had been duly recommended. No objection had been raised at any point of time earlier and he had sat in the written examination on 09.08.2020. His name had figured in the list of 25 candidates sent by the Haryana Public Service Commission to respondent No.5 since five times the number had to be sent. Thereafter, integrity certificate had also been issued on 30.10.2020 but at the last moment, it was withdrawn on 09.11.2020 without giving any notice to him due to which, his name now no longer figured in the list of 25 candidates. It is, thus, submitted that the applicant-petitioner has a prima facie case as such and in case the cancellation report is accepted, there would be nothing adverse against him. It is also submitted that his ACRs as such are upto the mark apart from one solitary ACR for the year 2017-18 in which it has been recorded that “integrity doubtful as Court case under the P.C. Act is still pending”. It is accordingly submitted that the said integrity in the service record is also subject to the decision of the cancellation report and serious prejudice would be caused to him if he is not allowed to be interviewed on 27th and 28th December, 2021.

Keeping in view the above factors, this Court is of the opinion that the applicant-petitioner has been able to make out a case for provisionally being interviewed by respondent

No.5, which shall do so on the dates fixed. His result be kept in a sealed cover to await the final decision of the writ petition since the writ petition can also be rendered infructuous in case the cancellation report is not accepted or he does not make the cut in the interview eventually.

Application stands disposed of.

Copy of the order be given to counsel for the parties under signatures of the Bench Secretary.”

In pursuance to the said directions, affidavit of Dr. Pradeep Kumar Joshi, Chairman of the respondent No.5-Commission has been filed, wherein, reliance had been placed upon Section 123 of the Indian Evidence Act, 1872 to not produce the recommendations of the Selection Committee held on 27.12.2021 and 28.21.2021 in respect of the petitioner and privilege has been claimed in that regard. However, the said recommendation as such of the Selection Committee regarding the petitioner of the select list of 2019 for appointment to the post of IAS of Haryana Cadre has been produced by Mr. Rajeev Kumar, his Principal Private Secretary before this Court only for its legal scrutiny and satisfy itself about the bona fides. The said record has been produced that was in a sealed envelop, shows that the the Selection Committee has considered the name of the petitioner provisionally, in addition to the normal zone of consideration and examined the service records upto 2018-19 and also interviewed him. However, he has not qualified on the basis of marks obtained by him in the interview and, thus, did not qualify for appointment against vacancies of 2019 list.

It is also to be noticed that another affidavit of Ashok Prasad, Under Secretary, UPSC has been filed by way of filing C.M. No. 1541-CWP of 2022 that there would be delay in adjudication of the claims and entitlements of the petitioner which has caused delay in finalization of the select list.

Keeping in view the above, Mr. Sharma has no grouse left as his case was only for consideration on account of the fact that a cancellation report was pending regarding the criminal proceedings as such.

Accordingly, this Court is of the opinion that the present writ petition has been rendered infructuous and is disposed of as such. Liberty is granted to the respondent-Commission as such to finalize the selection and declare the result at the earliest.

The said result/proceedings of the Selection Committee regarding the petitioner, which was produced in a sealed envelop, has been put back in the same envelop and resealed and handed over to Mr. Rajeev Kumar, Principal Private Secretary, who had produced the same.

(G.S. SANDHAWALIA)
JUDGE

09.02.2022
shivani

(VIKAS SURI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No