

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

279

CWP-13056-2016

DATE OF DECISION: 07.04.2022

SANDEEP MEHMI AND ANR.

... Petitioner(s)

Versus

DR. B.R. AMBEDKAR, NATIONAL INSTITUTE OF TECHNOLOGY AND ORS.

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Sandeep Arora, Advocate for the petitioners.

Mr. Vivek Singla, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners are seeking a direction to the respondents to conduct the skill test and interview for the posts of Deputy Registrar and to declare the result forthwith in terms of the advertisement No.4/2015 dated 27.04.2015 (Annexure P-1).

Learned counsel for the petitioners contends that the petitioners had qualified in the written examination and the respondents, without any valid reason, had withdrawn the selection process and reissued an advertisement. He further contends that the action of the respondents in doing so is not *bona fide* and the right of the petitioners for consideration in selection has been defeated. He has referred to the judgments of the Supreme Court in the case of **Asha Kaul Vs. State of Jammu and Kashmir**, reported as **1993 (2) SCC 573** and **R.S. Mittal Vs. Union of India**, reported as **1995 (Sup2) SCC 230**.

On the contrary, learned counsel for the respondents states that the petitioners had only qualified the screen test and the selection process was cancelled. The respondents had withdrawn the advertisement as the

reservation had not been provided for in the advertisement. The petitioners are not even the selected candidates and, therefore, cannot challenge the action of the respondents.

Heard.

The petitioners had applied for the post of Deputy Registrar in response to the advertisement issued by the respondents on 27.04.2015. The written examination/test had taken place on 15.10.2015. After the written test, the skill test and interview of the successful candidates was to be conducted on 09.05.2016. The respondents informed the candidates on 02.05.2016 that the skill test and interview has been postponed till further orders. The respondents, thereafter, took a conscious decision on 16.05.2016 and the advertisement was withdrawn as it was found that all the 14 posts have been advertised in the general category without any reservation for the reserved category candidates.

It has been held by the Supreme Court in the case of **Asha Kaul Vs. State of Jammu and Kashmir** (supra) that a selected candidate has no indefeasible right to be appointed provided the Government acts in a *bona fide* manner. Reference can be made to the judgment of the Supreme Court in the case of **Jai Singh Dalal Vs. State of Haryana**, reported as **1993 (2) SCT 230**, wherein selection process for the post of Haryana Civil Services (Executive Branch) had been completed but before the recommendations could be made for the appointment of the successful candidates, there was a change in the government and the new government decided to scrap the entire process. The action of the government in scrapping the entire process was upheld by the

Supreme Court by holding that a candidate on the selected list does not have any indefeasible right for appointment.

In the instant case, the petitioners are not even successful candidates. The entire process of selection has not been completed. They have only qualified in the first stage of the examination. The action of the respondents in withdrawing the advertisement on the ground of there being no provision for reservation appears to be *bona fide* and would not call for any interference in the afore-noted facts and circumstances.

The judgments cited by the learned counsel for the petitioners are distinguishable on facts and not applicable to the instant case. In the case of **Asha Kaul Vs. State of Jammu and Kashmir** (supra), 20 candidates had been selected by the Public Service Commission for appointment as 'Munsifs'. The State Government had sent only 13 names and 7 names of successful candidates had been withheld. The purported reason for withholding the names of 7 candidates was that complaints of irregularities in the selection had been received. It was held that as the complaints were general in nature and did not refer individually to any of the 7 candidates, these candidates were also entitled to appointment.

In the case of **R.S. Mittal Vs. Union of India** (supra), selection of the petitioner therein as a member of the Income Tax Appellate Tribunal, had been finalized and it was in those circumstances held by the Supreme Court that the appointing authority cannot ignore the selected panel or decline to make appointment on its whims. As already noticed hereinbefore that the

petitioners have only cleared the first step in the examination and before the other two stages of the examination could take place, the advertisement was withdrawn.

Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

07.04.2022
SwarnjitS

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No