

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

CM-18805-CWP-2022 &
CM-18807-CWP-2022 in/&
CWP-27272-2016
Date of Decision :20.12.2022

Nirmal Singh

...Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Arti, Advocate for the petitioner.

Ms. Harish Nain, AAG, Haryana.

Mr. Govind Tanwar, Advocate for
Mr. Kanwal Goyal, Advocate for the respondents.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-18805-CWP-2022

Present application has been filed for condoning the delay of 79 days in filing the application for restoration of the main writ petition, which was dismissed for non-prosecution vide order dated 28.07.2022 of this Court.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed. Delay of 79 days in filing the application for restoration of the main writ petition is condoned.

CM-18807-CWP-2022

Present application has been filed for recalling the order dated

28.07.2022 passed by this Court by which, the main writ petition was

dismissed for non-prosecution.

Keeping in view the averments made in the application, which are duly supported by an affidavit, application is allowed. Order dated 28.07.2022 passed by this Court is recalled and the main writ petition is ordered to be restored to its original number and status and is taken up for hearing today itself.

CWP-27272-2016

In the present writ petition, challenge is to selection which has been made to the post of Assistant Professor (Tourism) in pursuance to advertisement No.10/2015 issued by the respondents.

Learned counsel for the petitioner submits that the petitioner was not called for interview though, the selection was to be made on the basis of the written examination coupled with the grant of marks for personal achievements and viva-voce. Learned counsel for the petitioner argues that as the petitioner has not been allowed the benefit of 30 marks, which have been kept for personal achievements, while short listing candidates to be called for interview and that the said selection process adopted by the respondents is totally arbitrary and illegal and the selection based upon the said criteria, is liable to be set aside.

After notice of motion, the respondents have filed reply wherein, it has been stated that keeping in view the number of applications received, which were much more than the posts to be filled up, a criteria was adopted to short list the number of candidates to be called for interview to three times of the vacancies and the marks obtained by the candidates in the written examination was fixed as base so as to short list the candidates to be called for interview. As per the respondents, only the candidates, who cleared the written examination as per the shortlisting criteria were called for interview and therefore their personal achievements were assessed and keeping in view the marks secured by them in written examination, personal achievements and interview, total merit was

prepared and the candidates who could not make it to the second stage, keeping in

view the marks obtained by them in the written examination, they were never assessed in respect of their personal achievements as they were not even called for viva-voce.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The challenge in the present writ petition is to the selection being made to the post of Assistant Professor (Tourism). It is a conceded position that by the time the writ petition was filed, selection to the post advertised had already been completed and the candidates had already been selected but none of the candidate whose appointment will be affected, in case the prayer of the petitioner is accepted, is made party to the present petition. It is a settled principle of law that no writ petition can be entertained in case all the necessary parties, which will be prejudiced, keeping in view the final order passed, are not impleaded.

In the present writ petition, in the absence of any selected candidates as party to the present writ petition, even prayer of the petitioner could not be considered on merits.

Be that as it may, even otherwise, on the basis of uniform criteria which was made applicable to all, the selection was made and as there were only 09 posts and that too in different category against which numerous applications were received, the respondents evolved a criteria to shortlist the candidates to be called for viva-voce for which the limit was set to three times the number of vacancies advertised to be called for interview. The criteria to shortlist the candidates was on the basis of the marks obtained by the candidates in the written examination. In the present case, the petitioner conceded that he was not within the merit to be called for interview, keeping in view the number of vacancies to be filled up. That being so, no grievance can be raised by the petitioner.

Assertion of the petitioner that short listing of the candidates should have been done after adding the marks of the personal achievements, cannot be

same criteria. Furthermore, framing of criteria is a discretion of the employer and the only adjudication that can be undertaken by the Court is whether the criteria so framed is arbitrary or illegal or is such that is likely to cause prejudice to one set of the candidates. In the present petition, no prejudice has been shown by the petitioner on the basis of which the criteria framed by the respondents can be set aside. Fault cannot be put on criteria if a candidate fails to achieve enough merit on the basis of written examination to be called for interview. No ground has been raised to substantiate that the criteria for short listing the candidates was arbitrary and illegal or has caused prejudice to the petitioner only when applied. Hence, criteria framed by the respondents to assess the suitability of the candidates cannot be interfered with by this Court.

Keeping in view the above, no ground to allow the prayer of the petitioner is made out.

Dismissed.

December 20, 2022
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

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