

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

CWP-2267-2018 (O&M)

Date of decision: September 12, 2022

Davinder Singh

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ravi Kadian, Advocate for
Mr. Naveen Singh Panwar, Advocate for the petitioner.

Mr. R.K.S. Brar, Additional AG Haryana.

Mr. Kanwal Goyal, Advocate and
Mr. Govind Tanwar, Advocate for the respondent-HPSC.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned selection criteria (Annexure P-10) and consequently modification of the final selection list of the (Scheduled Castes Category) on the basis of marks obtained by the candidates in the written test and interview only.

2. Pledged case is that being fully eligible, petitioner applied for the post of Assistant District Attorney in the Prosecution Department, Haryana under Scheduled Castes Category against advertisement dated 17.11.2015 (Annexure P-1). Petitioner did LL.B. Course from the University of Delhi and LL.M. from Kurukshetra University, Kurukshetra. He appeared in the written examination. Petitioner qualified the same and subsequently appeared for interview on 21.06.2017. Result was declared, but petitioner was not

selected for the post in question. He sought information under RTI Act. Respondent No.2 uploaded a letter of criteria adopted for assessing the relative merit of the candidates after declaration of the result.

3. I have heard rival contentions of learned counsel for the parties and perused the record.

4. What emerges for adjudication before this Court is whether the petitioner having remained unsuccessful being fully aware of the fact that in case a number of candidates far exceed the desired number of candidates to be interviewed, then the Commission was to restrict their numbers on the basis of higher qualifications and experience than the minimum prescribed in the advertisement or by holding the screening test or any method devised by the Commission, as a volte face challenge the entire selection process belatedly? Before advertizing to the merits thereof, relevant clause of the advertisement dated 10/17.11.2015 (Annexure P-1) may be seen first, which reads as below:-

“2. The prescribed essential qualifications are minimum and mere possession of the same does not entitle the candidates to be called for interview. Where the number of applications received in response to the advertisement is large and it is not convenient or possible for the Commission to interview all the candidates, the Commission may restrict the number of candidates for interview to a reasonable limit on the basis of qualifications and experience higher than the minimum prescribed in the advertisement or by holding a screening test or any method devised by the Commission.”

5. *Apropos*, the Commission adopted rather an objective approach and devised criteria wherein 50% weightage was given to written marks obtained by every candidate coupled with 30 marks for personal achievement and 20 marks for interview. Aggregate of three was taken as the performance

and based thereon, merit list was prepared. It is not the case of the petitioner that any *mala fide* approach was adopted and/ or hostile discrimination was meted out to him in order to oust him from the competition. That apart, it is borne out from the sequence of events/facts that advertisement was issued on 17.11.2015 and the petitioner did not object to any of its clauses and/ or challenge the same. Instead, he participated in the written test held on 01.01.2017 without making out any grievance for more than a year prior thereto. Even subsequently, after having taken written examination, there has been not even a single whisper so to speak on the part of the petitioner that the selection process is vitiated with any shortcomings or otherwise. It is only when he was declared unsuccessful and final list of the selected candidates was prepared that, at that stage, he turned around and challenged the entire selection process by which third party rights have already crystallized in favour of the successful candidates. On that ground alone, I am of the view that petition need not to be entertained since it is hit by delay and laches.

6. Having said that, I may also like to add that Commission in fact contrary to much what has been alleged against it, has rather been very transparent in adopting the uniform criteria about all the candidates, as already noted hereinabove. No doubt, it does appear that the criteria adopted was not specifically incorporated in the advertisement and/ or was intimated to the candidates, but it was at the relevant stage, if at all the non-communication of the same ought to have been challenged. Merely because the same was not uploaded on the website of the Commission after the advertisement, would not *per se* vitiate the same in the absence of allegations of *mala fide*. Also, in every selection process, it may not be possible to pin

pointedly intimate the criteria to be adopted by the Commission and certain flexibility is required to be vested with the selectors, as long as the criteria adopted by them is applied uniformly and there is no pick and choose to adjust the candidates, who may be found favourable by some. In any case, there is no such allegation made in the petition and/ or in course of the arguments. In the overall premise, no irregularity has either been pointed out in applying the uniform criteria devised by the Commission.

- 7. Being so, no grounds for interference are made out.
- 8. Dismissed.
- 9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 12, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No