

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(201)

CWP-21667-2019

Date of Decision : September 30, 2022

Mohit Sharma

.. Petitioner

Versus

Haryana Public Service Commission and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate, for the petitioner.

Mr. Sandeep Singh Mann, Addl. Advocate General,
Haryana.

Mr. Kanwal Goyal, Advocate, for HPSC.

Mr. Anand Bhardwaj, Advocate, for respondent No.4.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the revised result which has been issued by the Department dated 09.08.2019 be set aside by which, the petitioner, who was initially declared successful for appointment as a Lecturer (Swastha Vritta) in Shri Krishna Government Ayurvedic College in Health and Ayush Department, Haryana, has been revised so as to select respondent No.4.

The facts leading to the filing of the present petition are as

under:-

The Haryana Public Service Commission issued an advertisement No.3 of 2017 dated 07.12.2017 advertising various posts including the post of Lecturer (Swastha Vritta). The petitioner, who claimed himself to be eligible under the advertisement, applied for the same and was called for interview which was fixed on 08.05.2019. All the candidates, who appeared, were asked to fill up a proforma giving the description of their qualification including the fact whether a candidate has been University topper or not. As the petitioner while obtaining the degree of MD (Ayurveda) was University topper in the post graduation, the same was filled up and was also produced before the authorities concerned for their consideration. After the interviews, the result was declared on 10.06.2019 wherein, the petitioner was declared successful by awarding him 65.50 marks. Thereafter, respondent-Commission on their own, after getting a particular information from the Himachal Pradesh University with regard to the fact whether the petitioner has topped the University in the post graduation degree, the result of the petitioner was revised on 09.08.2019 and two marks which were earlier granted to the petitioner for being first class first, were withdrawn and the net result was that the petitioner's score was reduced to that of respondent No.4 and there was a tie. In order to break the tie, respondent No.4 was selected being elder in age.

In the present petition, the challenge of the petitioner is to the revising of the result so as to withdraw two marks from him which were awarded to him being first class first in post graduation examination and the resultant declaration of respondent No.4 as the selected candidate for post of Lecturer (Swastha Vritta).

Initially, while issuing notice of motion, this Court passed order that the appointment, if any made will be subject to the final outcome of the writ petition but later on vide order dated 21.08.2019, the revised recommendations made by the Commission were ordered to be kept in abeyance for the post of Lecturer (Swastha Vritta) which order continue to be operate even as of now and none i.e. petitioner or respondent No.4 has been appointed.

After notice of motion, the respondents have filed the reply wherein, the official respondents in their reply have mentioned that for selecting a candidate to the post of Lecturer (Swastha Vritta), a criteria was framed according to which criteria, the marks were to be allocated to the candidates competing and the candidates securing the highest marks were to be declared eligible. As per the criteria, the marks were to be awarded on the basis of the academic qualification of a candidate including the fact that as to whether a candidate has obtained first class first position (University topper in post graduation) while qualifying any of the examination. The interview was for 12.5 marks and the total marks fixed by the respondents were 100.

As per the reply, keeping in view the post graduation degree of the petitioner, in Ayurveda obtained from Himachal Pradesh University, the petitioner was given two marks for being first class first but later on, keeping in view the information received from the Himachal Pradesh University, the said two marks were withdrawn and the resultant factual position was that the petitioner and respondent No.4 happen to secure same marks and respondent No.4 qualified the tie to be selected being elder in

Respondent No.4 has also filed a reply wherein, he has submitted that after the result was declared, being unsatisfied with the outcome of the result, he had filed a representation that he is more meritorious than the petitioner and on the basis of the said representation, the result was revised and the revised result is perfectly correct keeping in view the criteria fixed and therefore, the prayer of the petitioner for quashing the revised result may kindly be rejected and the writ petition be dismissed.

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

The only question which is to be determined in the present case is whether, the petitioner was correctly evaluated as per the criteria which has been taken into consideration for evaluating the candidates, who were competing for selection and appointment to the post of Lecturer (Swastha Vritta).

It is a conceded position between the parties that the criteria, which is being detailed hereinafter, was followed for adjudging the merit of the candidates competing.

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Commission lay down the following criteria for assessing the relative merit of the candidates through viva-voce for selection to the posts of Lecturer of Various Subjects in Shri Krishna Government Ayurvedic College, Kurukshetra in Health & Ayush Department, Haryana (Advertisement No.3(1) of 2017 dated 07.12.2017

Total Marks: 100 marks

1. Academic Qualifications & Personal Achievements 87.5 marks

Matric 45.0% to 49.99% 09 marks

	50.0% to 59.99%	10 marks
	60.0% and above	11 marks
10+2	45.0% to 49.99%	09 marks
	50.0% to 59.99%	10 marks
	60.0% and above	11 marks
BAMS/Graduation	45.0% to 49.99%	09 marks
	50.0% to 59.99%	10 marks
	60.0 and above	11 marks
Consistency	11 marks	
50% and above in any two out of (Matric, 10+2 and BAMS)		
60% and above in any tow (Matric, 10+2 and BAMS)		
Post Graduation in relevant subject:	06 marks	
Recognized under the IMCC Act, 1970		
(48 of 1970)		
Ist Class Ist (Topper in University in Post Graduation)	02 marks	
Ph.D	02 marks	
Publication	02 marks	
(I) Research/Review Paper Published in:		
Referred Journals having ISBN/ISSN numbers. 01 mark for each paper		
(II) Research Publications (Booka, Chapter in books		
other than referred Journal Articles with (ISBN/ISSN) numbers:-		
(a) Text or Reference books published by International/		
National publishers with (ISBN/ISSN) numbers) (01/nos of authors)		
marks for each Author		
(b) Chapters/Articles contributed to edited knowledge based volumes		
Published by International/National publishers with (ISBN/ISSN) numbers)		
01 mark for each chapter		
(Subject to maximum of 02 marks)		
Sports	15 marks	
(I) Olympic Games	a) Gold Medal	15 marks
	b) Silver Medal	14 marks
	c) Bronze Medal	13 marks
(II) Asian Games	a) Gold Medal	12 marks
	b) Silver Medal	11 marks

	<i>c) Bronze Medal</i>	<i>10 marks</i>
<i>(III) Commonwealth Games</i>	<i>a) Gold Medal</i>	<i>9 marks</i>
	<i>b) Silver Medal</i>	<i>8 marks</i>
	<i>c) Bronze Medal</i>	<i>7 marks</i>
<i>(Subject to maximum of 15 marks)</i>		
<i>National Dhanwantri Ayurveda Awards</i>		<i>10 marks</i>
<i>Co-curricular Activities</i>		<i>6.5 marks</i>
<i>i) NCC 'C' Certificate</i>		<i>6.5 marks</i>
<i>ii) NCC 'B' Certificate</i>		<i>04 marks</i>
<i>(Subject to maximum of 6.5 marks for (i) & (ii) above)</i>		

b). Interview:

The interview will be conducted through oral discussion and questioning which will be the touchstone to ascertain personal qualities i.e knowledge, awareness, intelligence, outlook toward social & national issues, poise bearing, expression, articulation, ethics & values, presentational alertness, behaviour, decision making & other related qualities.”

A bare perusal of the above would show that two marks were to be given in case a candidate is first class first topper in the University in post graduation. It is also a conceded position that the petitioner had obtained first class first in the MD (Ayurveda) obtained from the Himachal Pradesh University. It is also a conceded position that while evaluating the petitioner's academic qualification, he was given two marks on the basis of distinction he obtained in the post graduation being first class first and was declared meritorious with 65.50 marks and was selected for the post in question.

The question is whether, the withdrawal of these two marks initially extended to the petitioner by the respondents so as to re-evaluate the merit, is correct or not.

Learned counsel for the respondents submits that the petitioner was wrongly given marks as being topper in University in the post

graduation for the reason that the petitioner had not secured the highest marks amongst the candidates who are pursuing the MD degree in various subjects and was only a topper in the MD (Ayurveda), hence, the petitioner did not fulfil the criteria of being first class first or the topper in the post graduation. The said decision of the respondent-Commission is to be evaluated i.e. whether, the post graduation degree in various subjects is to be treated as a single stream or post graduation degree in different disciplines is a separate and distinct degree.

Each discipline has a topper and concededly in MD (Ayurveda), the petitioner secured first class first position. That being so, the grant of marks to the petitioner being first class first in MD (Ayurveda), was perfectly valid as post graduation degree in different discipline is to be treated a separate and distinct degree.

The second argument being raised by the respondents is that the marks given to the petitioner were withdrawn after the reply received from the Himachal Pradesh University, a copy of which has been appended with the reply to show that the petitioner was not over all topper in all the streams of post graduation. The said letter is being read in isolation. For appreciating the reply of the University, the query raised by the Commission needs to be looked into wherein, it was mentioned whether the petitioner is a overall topper of the University among “ all the discipline of the MD (Ayurveda or not”. It was under these circumstances the letter was written by the University. In fact, the question which was being asked by the Commission, was not correct keeping in view the criteria fixed. As per the criteria, the only requirement is first class first University topper in post graduation and it is a conceded position that there are more than one post

graduation degrees in various disciplines, which can be obtained by a candidate, which involves different curriculum to be undertaken by a candidate concerned, hence, the reply received from the University, without co-relating the same with the query asked, is being misinterpreted by the respondents.

Keeping in view the above, the grant of two marks to the petitioner being first class first University topper in MD (Ayurveda), were rightly awarded to the petitioner when initially evaluated, hence, the total marks which the petitioner secured is 65.60 which has to be taken into consideration for considering the petitioner for selection and appointment against the post of Lecturer (Swastha Vritta).

In view of the above, the respondents are directed to evaluate the petitioner with the score of 65.50 and decide whether, the petitioner makes the cut for appointment to the post of Lecturer (Swastha Vritta) or not.

Let appropriate decision in terms of the direction given be taken by the respondents within a period of one month from the receipt of copy of this order.

The present writ petition is allowed in above terms.

September 30, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes