

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

**CWP-4177-2017 (O&M)
Reserved on: 18.11.2022
Date of decision: 22.12.2022**

ASHU SINGLA

...Petitioner

VERSUS

**MAHARAJA RANJIT SINGH PUNJAB TECHNICAL UNIVERSITY
AND OTHERS**

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kapil Kakkar, Advocate
for the petitioner.

Mr. D. S. Bhinder, Advocate
for the respondents No.1 to 4 and 6.

JAISHREE THAKUR, J.

1. The instant writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari for quashing letter dated 25.01.2017 (Annexure P-10) sent under RTI, vide which the petitioner has been informed that none of the candidates were found suitable for the post of System Analyst as advertised vide advertisement No.MRSSTU/ESTB./2015/03 in November, 2015 (Annexure P-2) and no separate marks were given to the candidates in the interview and also to quash advertisement No.MRSPTU/ESTB./2016/47 as advertised in October, 2016 (Annexure P-13) to the extent to the post of System Analyst as the qualification and experience as prescribed in the advertisement are alleged to be against the AICTE norms and UGC guidelines and further to

issue a writ in the nature of mandamus directing the respondent-University to complete the selection process for the said post as per the prescribed criteria and consider the case of the petitioner for appointment to the post of System Analyst.

2. In brief, the facts as stated are that the respondent-University issued an advertisement No.MRSSTU/ESTB./2015/03 for recruitment of Teaching and Non-Teaching positions in November, 2015, including one post for System Analyst (Non-Teaching post). The petitioner herein, who had requisite qualification (MCA and M. Tech degree) as well as experience, applied for the post of System Analyst. The respondent-University screened the applications received and shortlisted 22 candidates, whose forms were found in order. Out of these shortlisted candidates, only 12 candidates appeared for the written examination, which was held on 25.05.2016. The petitioner appeared for the written examination and topped the list by securing 39 marks out of 45 marks. The petitioner along with other candidates was called for the interview, which was held on 24.06.2016. Only 9 candidates appeared for the interview and the result was declared on 18.07.2016, wherein it was stated that none of the candidates were found suitable for the post of System Analyst. The petitioner sought information under the Right to Information Act, 2005, wherein as per the said information supplied (Annexure P-10), none of the candidates were found suitable. The petitioner submitted a representation to the Vice Chancellor of the University for reconsideration and appointment, but to no avail. Meanwhile, the respondent-University issued another advertisement vide No.MRSPTU/ESTB./2016/47 in October, 2016 for the post of System Analyst with change in qualification and clause of experience in

research/industry being deleted. Aggrieved against the action of the respondent-University, the instant writ petition has been filed.

3. Learned counsel for the petitioner would contend that the petitioner had necessary qualification and experience to be appointed on the post of System Analyst. As per the advertisement (Annexure P-2), qualification for the post of System Analyst was prescribed. It is submitted that the action of the Selection Committee in not awarding marks for the interview to any of the candidates is absolutely illegal and arbitrary and even if zero marks would have been given, then on that basis, the total marks as obtained by the petitioner in the written examination etc. should have been treated as final marks obtained and appointment would have been offered to the petitioner as he topped the examination. It is also argued that in the advertisement (Annexure P-2) for appointment to the post of System Analyst, there was no mention that marks would be awarded for interview and, therefore, the very procedure of allocating 10 marks for the interview is *dehors* the said advertisement and the marks for interview is beyond the advertisement. Learned counsel for the petitioner would rely upon a judgement rendered by the Supreme Court in **K. Manjushree versus State of A. P., AIR 2008 SC 1470**, wherein it has been held that it is incumbent upon the authorities concerned to disclose the criteria to be adopted for selection before the start of the selection process, which was not done in the instant case as it was only vide letter dated 18.07.2016 (Annexure P-8) that the respondent-University declared the result of the interview and stated that no candidate was found suitable for the said post. He would argue that the petitioner was totally unaware that there was going to be 10 marks for the interview. Various candidates, who appeared for the selection on various

other posts against the same advertisement have been awarded marks for the interview and, therefore, the respondent-University cannot be permitted to adopt a different yardstick while making recruitment in pursuance to the same advertisement. He further submits that there are no cogent reasons for not awarding marks for the interview to any of the candidates, who appeared for the post of System Analyst.

4. Learned counsel for the respondent-University would urge that the University in its advertisement had reserved the right not to fill up posts, which right has been exercised judicially and, therefore, the appointment cannot be offered to the petitioner herein. It is submitted that no candidate was found suitable in the interview held for the post of System Analyst and, therefore, it was decided to re-advertise the said post. He further submits that the petitioner has not impleaded the All India Council of Technical Education (AICTE) and Universities Grants Commission (UGC) as respondents in the present writ petition as the petitioner has alleged that the qualification and experience prescribed in the subsequent advertisement (Annexure P-13) is against AICTE and UGC norms and on this very ground, the instant writ petition is liable to be dismissed.

5. I have heard learned counsel for the parties and with their able assistance have gone through the pleadings of the case as well as the case laws cited.

6. Admittedly, the petitioner applied for the post of System Analyst and being one of the 12 successful candidates in the written examination, he was called for the interview. However, the Selection Committee chose not to award marks to any of the candidates in the interview by finding them unsuitable. It is based on this act, that the present

writ petition has been filed seeking the appointment on the said post claiming that even if no marks are awarded for the interview, the person with highest marks ought to have been offered appointment. The written statement as filed by the respondents only highlights the fact that the marks could not be allocated to any of the candidates in the interview because none of them were found suitable for the said post. Learned counsel for the petitioner has argued with great vehemence that the eligibility criteria as settled of holding an interview was not prescribed nor mentioned in the advertisement and, therefore, the judgement rendered in *K. Manjushree's case (supra)* would be fully applicable to the facts of the present case.

7. It is not in dispute that the petitioner herein, who appeared under Roll Number 160002 obtained total 39 marks and was ranked at serial No.1 in the written exam for the post of System Analyst, whereas the next highest candidate, who appeared under Roll Number 160011 secured 17.75 marks. The educational qualification and experience had been prescribed and as per the eligibility criteria (as per the information obtained under the RTI Act), 20% marks were to be given for educational qualification, 70% weightage was to be given for written examination and 10 marks were to be awarded for interview. The only ground for rejection of the candidature of the petitioner was on the basis of a decision taken by the Selection Committee not to award any marks to the candidates for interview. The said Committee constituted was to award marks to the candidates, be it *zero* and cannot shirk its responsibility by not giving marks by concluding that none of the candidates were found suitable for the post of System Analyst. Even if the petitioner herein had been awarded *zero* marks, he would still have been a candidate with the highest marks. For the sake of arguments, if the

candidate who had obtained 17.75 marks was given 10 marks for the interview, he would still have come at second place with 27.75 marks. The marks obtained for educational qualification, written examination and interview have to be computed as a whole and the grant total would determine the merit of a candidate for appointment to the post of System Analyst.

8. Admittedly, there are no minimum marks prescribed by the respondent-University which could be treated as cut-off marks and in the absence of minimum marks, the highest candidate securing, be it even *zero* in the interview has to be considered eligible and entitle for appointment to the post of System Analyst. Moreover, no reasons have been recorded by the Selection Committee for finding the candidates not suitable for appointment to the said post.

9. The case of the petitioner herein stands covered by a judgement rendered by the Supreme Court in *K. Manjushree' case (supra)*, wherein it has been held that it is incumbent upon the authorities concerned to disclose the criteria to be adopted for selection before the start of the selection process, which was not done in the instant case. Interview was held, which did not form part of the procedure for selection as it was only mentioned that practical/written test would be held wherever necessary. A similar issue came up for hearing before this Court i.e. *CWP No.11486 of 2010*, titled as *Ravinder Kumar versus State of Haryana and others*, decided on *29.02.2012*, along with another connected petition, in which again no marks were awarded for the interview and this Court held that the Selection Committee cannot deny marks to a candidate on the ground that no eligible candidate is found. LPAs filed by the respondents-State against the order

dated 29.02.2012 also stand dismissed by the Division Bench of this Court on 10.05.2012.

10. Consequently, the instant writ petition is allowed. The petitioner herein would be held entitled for appointment to the post of System Analyst. The respondent-University is directed to issue appointment letter to the petitioner herein for the post of System Analyst, if all other necessary conditions are satisfied, within a period of one month from the date of receipt of certified copy of this order.

22.12.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No