

Sr.No.203

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

CWP No.9665 of 2013(O&M)

Date of Decision: 30.11.2022

Karma Singh

...Petitioner

Versus

Haryana Vidhan Sabha and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. P.K. Chugh, Advocate
for the petitioner.

Mr. Saurabh Mohunta, D.A.G., Haryana.

Mr. R.K. Malik, Sr. Advocate
with Mr. Sandeep Dhull, Advocate
for respondents No.4 to 18.

ARUN MONGA, J.(ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing the selection of respondents No.4 to 18 on the post of Peon.

2. Succinct facts first. Secretary, Haryana Vidhan Sabha, Chandigarh advertised 10 posts of Peon along with other posts on 29.11.2012. As per the advertisement No.11/2012 (Annexure P-1), the qualifications for the post of Peon were that the candidate should have passed middle examination and secondly, should have knowledge of Hindi and English. Petitioner being fully eligible, applied for the said post. After scrutiny the petitioner was sent an interview letter dated 26.02.2013 (Annexure P-2), requiring him to appear in interview. More

than 6000 candidates had applied against 10 posts of Peon and the interviews were held from 18.03.2013 to 24.03.2013. The Selection Committee consisting of 12 members, all working in Vidhan Sabha including respondent Nos.2 & 3, was constituted by respondent No.1. Petitioner appeared for interview on 19.03.2013 before respondent No.3. Number of posts were increased from 10 to 12 and the private respondents No.4 to 15, who were already working on *ad hoc* basis in the office of respondent No.1, were regularized. Hence, the present petition.

3. What thus emerges is, that the petitioner, who concededly participated and remained unsuccessful in the selection process, has challenged the selections of private respondents on the ground that large scale favouritism is writ large. This is due to the fact that not only did many of the selected candidates belong to a particular constituency but also the advertisement *qua* the post in question at Chandigarh was published in newspaper in Delhi.

4. The second allegation first. In course of hearing, the learned State Counsel was confronted with para 11 of the reply filed by Vidhan Sabha, wherein there is certain ambiguity with regard to the newspaper advertisement being published only in Delhi. In fact, the ambiguity in the reply was better clarified subsequently in the written statement filed on behalf of respondent No.19-Director, Information, Public Relations & Languages Department, Haryana, namely, Sh. T.L. Satyaprakash, IAS. In the written statement, he has stated in no uncertain terms that the advertisement was published not only in Amar Ujala, Chandigarh but also in Indian Express, Chandigarh, which is circulated in the region as well as in States of Haryana and Delhi. This explanation, to my mind, satisfies

the interim observations made vide order dated 06.04.2017 by the Learned

Judge that the explanation in para No.11 of the reply filed by Vidhan Sabha, as if butter wouldn't melt in the mouth, was perhaps in the backdrop of the incorrect factual position in the absence of the affidavit filed by the Director Public Relations, Haryana. It transpires that vide the same interim order, the Director Public Relations was impleaded as a party to clarify the actual inconsistency.

5. Accordingly, I am of the view that there is no substance in the argument of the learned counsel for the petitioner that there was no publication of the advertisement in the regional newspapers *qua* post in question.

6. As regards the first allegation of favouritism, learned Senior Counsel for respondents No.4 to 18 relies upon a common judgment dated 19.05.2020 rendered by this Court in a bunch of petitions with lead case CWP No.14218 of 2014, titled ***Pooja Sachdeva and another vs. Haryana Vidhan Sabha and others*** and other connected cases, wherein speaking for this Court my Sister Ritu Bahri, J., has held as under:

“xxxxxxxxxxxx

*With respect to the allegations of favoritism and partiality, reference at this stage can be made to a judgment passed by this Court in **CWP-15937-2008 titled Mukesh Bala V/s. State of Haryana and others**, decided on 05.03.2014 in which a Coordinate Bench was examining the selection for the post of Multi-Purpose Health Worker (Female) and the grievance of the petitioner therein was that the Selection Committee had given intentionally more marks to the candidates to whom they wanted to be selected and lesser marks had been given to those candidates whom the Selection Committee did not want to be selected irrespective of their academic marks. The Coordinate Bench rejected the argument of the petitioner that some of the selected candidates were related to respondent No. 4, who was member of the Commission. The Court held that merely because some of the selected candidates were related to member of the Commission i.e. respondent No. 4 cannot be a ground for setting aside the selection because respondent No. 4 did not participate in the process of the selection and*

*further the selection of respondent No. 4 as member of the Commission had taken place after the interviews were over. The Coordinate Bench, while referring to the judgment of the Supreme Court passed in **Ashok Kumar Yadav V/s. State of Haryana, 1993(4) RSJ 73** held that merely because some of the selected candidates were related to the member of the Commission, cannot vitiate the selection process or can be a ground for setting aside their selection.*

*Further the argument of the petitioners that in interview more marks had been given to the candidates who were favourites, is also liable to be rejected as the Supreme Court in the case of **Ranjan Kumar V/s. State of Bihar and others 2014(3) S.C.T. 620** held that when the petitioner participated in the selection process knowing fully well the process, could not have resiled later on that the procedure adopted by the department was vitiated. In para 13, the Supreme Court observed as under:-*

*“13. the next submission which has been presented before us is that when the Respondents had appeared in the interview knowing fully well the process, they could not be resiled later on or taken a somersault saying that the procedure as adopted by the department was vitiated. In this connection, it is apt to refer to the principle stated in **Om Prakash Shukla v. Akhilesh Kumar Shukla and Ors., 1986 (Supp) SCC 285**, in the said case a three-Judge Bench, taking note of the fact that the Petitioner in the writ petition had appeared for the examination without protest and filed the petition only after he realized that he would not succeed in the examination, held that the writ Petitioner should not have been granted any relief by the High Court”.*

*Further the Supreme Court in **Sajeesh Babu V/s. N.K. Santhosh and others 2012 (12) SCC 106** was examining the selection for grant of LPG distributorship by the Bharat Petroleum Corporation Ltd. In this case, the Selection Committee was constituted to examine the applications and while challenging the selection no mala fide was attributed to any of the members of the Selection Committee and in this backdrop the Supreme Court held that it would normally be wise and safe for the Courts to leave the decision of selection of this nature to the experts who are more familiar with the technicalities/nature of the work and the Courts should be slow to interfere with the opinions expressed by the experts, unless there is any allegation of mala fides against the experts who had constituted the Selection Committee.*

In the facts of the present case, the allegation of the petitioners is that the selected candidates belonged to Constituencies of the Speaker and of former Speaker. In the written statement filed by the private respondents, it has been clarified that even if some selected candidates belonged to the Constituencies of the Speaker and of the former Speaker,

*none of the selected candidates were related to them in any manner and merely because they belonged to their Constituencies cannot vitiate the selection process as held by the Supreme Court in **Ranjan Kumar's case (supra)**. Moreover, there is no personal mala fide against the members of the Selection Committee. A perusal of the official record shows that both the members of the Selection Committee had awarded individual marks to each candidate out of 25 marks and they had signed the final result after clubbing the marks given by them on 03.03.2014. Hence, under no circumstances, the selection cannot be vitiated on the ground of mala fide or biased as per the Ranjan Kumar's case (supra).*

Keeping in view above observations, writ petitions are dismissed.”

7. In the present case, at the first flush, the argument canvassed by learned counsel for petitioner may appear attractive that many of the selected candidates belong to a particular Constituency. However, on a closer scrutiny, it is borne out that the petitioner, himself having participated in the selection and scoring much lesser marks than any of the selected candidates, is challenging the said action without there being any supporting material regarding selected candidates. The marks obtained by the selected candidates are based on the criteria adopted by the Selection Committee. An affidavit dated 10.12.2018, filed by the Joint Secretary-cum-Nodal Officer, Vidhan Sabha discloses the credentials of the selected candidates and when compared with those of the petitioner, the merit of the petitioner does not inspire much confidence. Merely on the unsubstantiated ground of favouritism and in the absence of any supporting material *qua* allegations appended with the writ petition, it would be improper on the part of this Court to exercise extraordinary writ jurisdiction and indulge in fishing expedition based on the roving allegations made by the petitioner. Further the judgment passed in **Pooja Sachdeva's case** *ibid* also squarely covers the facts of the present case.

8. There is another aspect of the matter i.e., by sheer lapse of time, all the selected candidates have now rendered close to 9 to 10 years of service and it is not the case of the petitioner that there was any misrepresentation or concealment on the part of the said selected candidates *qua* their credentials. Trite it is to say, to tilt the balance of equity after the same stands frozen by sheer lapse of time would be travesty of justice for those who have rendered such a long service and in the interregnum may have settled down, got married and extended their families or may have taken housing or vehicle loan or other loan, as the case may be. To subject them to fresh scrutiny at such a belated stage, when there is no contributory or other fault on their part, is hit by sheer delay and laches.

9. Learned counsel for the petitioner has not been able to cite any contrary judgment.

10. As an upshot of the discussion above, there is no ground to interfere.

11. Petition is dismissed.

12. Pending civil miscellaneous applications, if any, also stand disposed of.

November 30, 2022
ashish

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No