

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.13337 of 1999(O&M)

Reserved on: 09.08.2023

Date of Pronouncement: 13th September, 2023

Ravinder Singh Thakur

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr.R.S.Manhas, Advocate, for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

Mr. Rajiv Atma Ram, Sr.Advocate,
assisted by Ms.Sanah Saini, Advocate,
for respondents no.4 to 7.

SANJEEV PRAKASH SHARMA, J

1. The petitioner has, by way of this petition, prayed for quashing the selections of respondents no.4 to 8 on the post of Naib Tehsildar alleging nepotism and favoritism and further also prays to consider his case for appointment by quashing the *inter se* marks awarded to all the candidates and the consequent merit list.

2. Brief facts which need to be noticed for the purpose of disposal of this writ petition are that an Advertisement was published inviting applications for appointment on the post of Naib Tehsildar on 01.07.1996, in all 18 posts which were advertised and the eligibility

criteria was also published. The petitioner participated in the selection process and the final result of the selection process was published on 15.05.1999 mentioning the roll numbers alone. However, roll number of the petitioner did not figure in the said list. The merit list or the marks obtained by the candidates were not published.

3. Learned counsel for the petitioner submits that the entire procedure adopted for conducting the selections was *de hors* the rules and suffered from colorable exercise of power. Persons who were close relatives of political leaders of Punjab and officers and members of the Selection Committee, were selected. He further alleges that several candidates did not possess the minimum qualification as required on the last date of submission of the application form. However, they were inducted. It is also submitted that the written examination was conducted after period of two years from the date of issuance of the Advertisement without there being any plausible reasons. The below selection process was in cloud and deserves to be declared illegal.

4. Learned counsel for the respondents, however, refused the allegations leveled against the selection process and further the respondents no.4 to 8 have also filed their reply and denied their close association with any of the political leaders or members of the selection committee. It is also stated by one of the selected candidate that merely because his father is a political leader, he cannot be denied to participate in the selection process. The respondents have also stated in the reply that the petitioner had scored 149 marks out of 240, whereas the last

candidate from General Category inducted in the appointment scored 149.5 marks and thus, the petitioner was placed at no.1 in the waiting list but could not be selected since the department only had limited posts available.

5. During the pendency of this writ petition, a misc. application has been filed for bringing on record additional facts and circumstances which have arisen during the pendency of the present writ petition. It is stated that one other applicant Preet Kaur Dhillon had also preferred a **Civil Writ Petition No. 8000 of 1999** alleging that she was not awarded additional three marks for NCC 'C' certificate and one mark for having done M.Phil. She thus, submitted that if four marks would have been added to her marks, which have been allotted as 146, she would have scored 150 and would be entitled for appointment. Her writ petition came to be allowed by this Court vide judgment dated **18.05.2004** and in terms of the order passed by this Court dt.18.05.2004, the said candidate was offered appointment as Naib Tehsildar.

6. In the light of the aforesaid, the petitioner has limited his argument to submit that if the petitioner would have been allotted 2 marks for having done LLB, which were not granted, he would be also in the merit list as he would overall score 151 marks and having scored higher marks from the last candidate appointed, the petitioner should be appointed.

7. I have considered the submissions.

8. The petitioner has not been able to make out a case of nepotism and favoritism as the said allegations have been denied and no concrete proof has been placed before the Court except making bald allegations.

9. Coming to the aspect regarding the petitioner being awarded additional 2 marks for LLB, this Court finds that the petitioner was entitled to receive additional two marks for having done LLB as per norms. The said two marks should have been given. If the marks are added, he gets marks more than the last cut off. However, at this belated stage, after a period of more than 24 years, it would not be appropriate to disturb the selections which have already been conducted and the concerned selected candidates having put more than 24 years of service, their services cannot be dispensed with. Additional post cannot be created by this Court. The petitioner, therefore, cannot be granted relief of appointment. Even **Dhillon's case (supra)** was delivered on 18.05.2004 and almost 19 years have elapsed.

10. In view of the above, at this late stage while this Court finds that the petitioner had a genuine right of being considered for appointment and he ought to have been awarded two marks for having completed LLB, bringing him within the merit and above the persons who have already been appointed, the relief at this belated stage of appointment cannot be awarded to him.

11. Learned counsel has also been unable to inform the court as to how the petitioner is surviving and earning his bread for last 24 years. In the circumstances, the only solace which can be provided is by awarding damages. In a similar case of Meghalaya High Court titled **Pynskhemlang Nongrang v. The Directorate of Soil and Water conservation**, decided on **08.09.2022**, it has been held as under:-

“31. Since it is evident that the writ petitioner has been unfairly treated and has lost on a lifetime opportunity to obtain a position that the writ petitioner appears to have deserved, the State and the concerned prospective employer will pay damages by way of costs assessed at Rs.3 lakh. Such costs have to be paid within three months, failing which it will carry simple interest at the rate of 7 per cent per annum from the expiry of three months from date. It will also be open to the State to extract the costs or a substantial portion thereof from the members of the interview board.”

12. Keeping in view the aforesaid judgment and considering the facts of the case as noticed above, this Court deems it appropriate to grant damages to the petitioner instead of relief for consideration for appointment after a period of more than 24 years and to award him a sum of Rs.5,00,000/- for being deprived of appointment on account of wrongful calculation of his merit. The said amount shall be paid to the petitioner and it would be open for the State to recover the same from the members of the Selection Committee. Compliance shall be made within a period of three months.

13. The writ petition is accordingly allowed in part.

13th September, 2023

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(SANJEEV PRAKASH SHARMA)
JUDGE

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