

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10632 of 2011(O&M)

Date of decision: 30.01.2023

Ranjit Singh

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S.Behl, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab

Mr. Arun Jindal, Advocate
for respondent no.4.

Mr. S.K.Rattan, Advocate
for respondent no.5.

Mr. Stavan Jain, Advocate, for
Mr. B.B.Bagga, Advocate
for respondent no.6.

ANIL KSHETARPAL, J(Oral)

C.M.No.4490 of 2018

Allowed as prayed for.

Annexures P-6(colly) and P-7 are taken on record.

MAIN

1. The petitioner prays for the issuance of a writ in the nature of certiorari to quash the selection of respondent no.4 to 6 to the post of Homeopathic Medical Officer in the orthopedically handicapped category.
2. The relevant facts, in brief, are required to be noticed to understand the controversy involved in the present case.
3. A recruitment notice was issued on 21.08.2008 inviting

applications for filling up the post of Homeopathic Medical Officer. 3% seats were reserved for the handicapped persons. The reservation of 3% was divided into three categories i.e. 1% seats for physically handicapped, 1% for blind people and 1% for deaf and dumb candidates.

4. The respondent no.4 to 6 were appointed, however, the petitioner, who belongs to the blind category was not appointed, resulting in filing of the writ petition.

5. This case has seen many ups and downs. It is unfortunate that the State Government has filed various affidavits taking different stands from time to time. However, that does not become any reason to decide the case in favour of the petitioner.

6. In the affidavit dated 24.01.2023, the Principal Secretary, Health and Family Welfare, Punjab, disclosed that the criteria of attaining minimum 50% marks is required in BHMS/DHMS and the rule was applied across the board and no candidate having secured less than 50% marks in BHMS/DHMS has been selected nor given appointment. It has been pointed out that in order to shortlist the candidates for attending the interview, the minimum cut off was 50% marks and it was used across the board and the petitioner secured only 49.77% marks.

7. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

8. It may be noted here that the pursuant to the recruitment notice issued in the year 2008, the selection process was completed in the year 2009.

9. The learned counsel representing the petitioner submits that the respondents have erred in excluding the petitioner's name on the basis of

minimum benchmark particularly when it is not specifically provided in the recruitment notice or the service rules. He further submits that, in any case, the petitioner has secured more than 50% marks if DHMS science examination is taken into account.

10. On the other hand, the learned counsel representing the respondent-State points out that before the counselling/interview, the department decided to short list the candidates and accordingly, the merit list was prepared/declared and the candidates were requested to attend the interview. It is submitted that the petitioner has wrongly included DHMS science examination for calculating the cut off marks as that is only necessary for the candidates, who did not pass their matriculation examination with Biology subject. It is submitted that the DHMS science examination is not a part of the curriculum and hence could not be taken into account while calculating cut off marks to shortlist the candidates for interview.

11. This court has considered the submissions of the learned counsels representing the parties and with their able assistance perused the paper book.

12. As regards the criteria laid down by the Government for inviting the candidates to attend the interview, the process of shortlisting the candidates in the eyes of law is permissible unless specifically provided otherwise in the rules. Whenever a large number of applications are received for recruitment in order to complete the selection process, it is necessary to apply a specific criteria to shortlist the candidates to make the process smooth. As noticed above, a specific affidavit has been filed to claim that none of the selected candidates have secured less than 50% marks

in the DHMS examination and no appointment has been made where a candidate falls short of the minimum eligibility criteria.

13. As regards the second argument, the respondent-State has filed an affidavit dated 06.09.2022, explaining the curriculum for DHMS/BHMS. It has been explained that since the petitioner did not pass matriculation examination with the subject of Biology, hence, he passed the DHMS science examination which makes him eligible to seek admission in BHMS/DHMS course. Hence, it is evident that the petitioner failed to secure minimum marks as required by the concerned authority.

13. Keeping in view the aforesaid facts and discussion, no ground to issue the writ as prayed for is made out.

14. Dismissed.

15 All the pending miscellaneous applications, if any, are also disposed of.

January 30, 2023

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*