

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

CWP-14226 of 2023 (O&M)
Date of decision :07.07.2023

SHUBHAM SHREE

-

...Petitioner

Versus

STATE OF U.T. CHANDIGARH AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Anshul Sharma, Advocate
for the petitioner.

HARSH BUNGER, J. (ORAL)

1. Petitioner (Shubham Shree) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of *mandamus*, directing respondent No.2-Municipal Corporation, New Deluxe Building, Sector 17, Chandigarh, to decide the representation dated 24.04.2023 (Annexure P-11); whereby, she made a request to inquire into the alleged irregularities done while conducting the selection process for the post of Sub Divisional Engineer(Horticulture) within a stipulated period of time.

2. Briefly, on 26.03.2021, respondent No.2 (Municipal Corporation, Chandigarh) issued a recruitment notice with regard to recruitment of various posts, including two posts of Sub Divisional Engineer (Horticulture) in Chandigarh Municipal Corporation, Chandigarh and the online applications were to be accepted upto 03.05.2021 from the eligible candidates for filling up the said posts. It appears that in partial modification

to the said recruitment notice, one vacancy of Sub Divisional Engineer (Horticulture) was withdrawn on administrative grounds and accordingly, a corrigendum (Annexure P-2) to the Advertisement No.1857 dated 26.03.2021 was issued.

3. As per the petitioner, she went through the procedure for submission of online application; whereupon, an admit card (Annexure P-6) was stated to have been issued to her. It is further submitted by the petitioner that according to the result released by respondent No.2 (Municipal Corporation, Chandigarh), she achieved the top position by scoring 36.50 marks. The petitioner claims that after clearing the test, she was called for document verification on 01.11.2021 and after verification of the documents, she was not called for the interview and neither any reason for the same was given to her, despite the fact that she scored highest marks. It is stated that the candidates, who secured lesser marks than the petitioner, were called for the interview.

4. It is the case of the petitioner that to know the reason for not calling her for interview inspite the fact that she secured highest marks, she sent an application under the 'Right to Information Act' (RTI) to the concerned department, to which, the department sent a reply (Annexure P-9), which, according to the petitioner, was not satisfactory and accordingly, she filed an appeal under the Right to Information Act, 2005, which was disposed of vide order dated 19.07.2022 (Annexure P-10). It appears that thereafter on 24.04.2023, the petitioner sent a representation (Annexure P-11) to respondent No.2-Commissioner, Municipal Corporation, Sector 17, Chandigarh, for enquiring into the matter with regard to the

alleged irregularities done while conducting the selection process for the post of SDE (Horticulture).

5. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition, seeking a direction to respondent No.2-Municipal Corporation, Chandigarh to decide her representation dated 24.04.2023 (Annexure P-11) in a time bound manner.

6. I have heard learned counsel for the petitioner and perused the paper book with his able assistance.

7. A perusal of representation dated 24.04.2023 (Annexure P-11) would reveal that the petitioner made the following averments therein :-

“...After the test, I received the highest marks i.e. 36.50 out of 90 in the above mentioned test. For better perusal, I am attaching a copy of result for the SDE (Hort.) (Annexure “E”) Test held on 29.08.2021. On the basis of that, I was called by your department for submission of my documents. After some period of time, an interview was conducted in which candidates who scored less marks than me were invited, without even informing me through any mode. A copy of Admit Card (Annexure “F”) is attached along with this application. When I came to know about it, I felt cheated and tried to contact your respective department. Only after that I came to know that my application has been rejected on the ground that I did not fall within the criteria of 3 year experience, although the same was never informed me in writing before or after conduction of interview, which was an utter shock for me. I even filed a RTI in this regard in order to know the criteria, although the same was not answered by your concerned department on the ground that “as per Section 2(f) of the RTI Act 2005, the information asked by me cannot be answered.” As a concerned candidate who applied for the post, I urge you to conduct a thorough

inquiry into these irregularities and take appropriate action to rectify any wrongdoings. It is crucial that our selection process to be fair and transparent and any violation of this principle must be dealt with swiftly and effectively. I believe that an inquiry into these irregularities will not only help to ensure that justice is served, but also strengthen the trust and confidence that the public has in your esteemed department. I would like to request that the investigation be conducted by an independent and impartial body to ensure that the findings are objective and unbiased. I would appreciate your prompt attention to this matter and hope that the inquiry is initiated at the earliest. Thank you for your consideration.”

From a perusal of the above extracted averments made in the representation, it is manifest that the candidature of the petitioner was rejected on the ground that she did not fall within the eligibility criteria of three years’ experience.

8. In reference to the above, it would be apposite to refer to the recruitment notice (Annexure P-4) as regards the post of Sub Divisional Engineer (Horticulture) at Serial No.5, which reads as under :-

<i>Sr. No.</i>	<i>5</i>
<i>Name of Post</i>	<i>SDE (Hort)</i>
<i>Group</i>	<i>Group-A</i>
<i>Pat Scale/matrix</i>	<i>Pay scale/Matrix against the said posts are as per the 7th Central Pay Commission to be notified by the Government of Punjab and adopted by the Chandigarh Administration.</i>
<i>Total Number of vacancies</i>	<i>02</i>
<i>Category wise vacancies</i>	<i>General-02</i>

<i>Essential qualification</i>	i) <i>M.Sc. Degree in Agriculture with specialization in Horticultures of M.Sc Degree in Horticulture (including Floriculture, Olericulture) or M.Sc Degree in Botany with Horticulture as a subject from a recognized University or equivalent</i> <i>Or</i> <i>B.Sc (Agriculture) or B.Sc (Botany) or B.Sc (Horticulture) with Post Graduate diploma in landscape Architecture, Horticulture from recognized University or equivalent.</i> ii) <i>3 years experience in Horticulture including ornamental gardening ranging over various fields of Horticulture</i>
<i>Age limit</i>	i. <i>Unreserved/EWS candidates should not be below 18 years and above 37 years of age as on 01.01.2021.</i> ii. <i>Candidates belonging to Scheduled caste category should not be below 18 years and above 42 years of age as on 01.01.2021.</i> iii. <i>Candidates belonging to OBC category should not be below 18 years and above 40 years of age as on 01.01.2021.</i> iv. <i>Candidates belonging to persons with Benchmark Disabilities (PwBD) category should not be below 18 years and above 47 years of age as on 01.01.2021.</i> v. <i>Candidate belonging to Ex-Serviceman category shall be allowed to deduct the period of his service in the Armed Forces of the Union from his actual age and if the resultant age does not exceed the maximum age limit prescribed for direct appointment to such a vacancy in the concerned service Rules, by more than 03 years, he shall be deemed to satisfy the condition regarding age limit.</i> vi. <i>Relaxation upto 40 years only for employees of the Municipal Corporation, Chandigarh.</i> vii. <i>For the persons working on contract basis against sanctioned posts in the various department of Municipal Corporation, Chandigarh will be given age relaxation equal to the period</i>

	<i>rounded to nearby months they worked in Municipal Corporation, Chandigarh provided the such contractual employees shall attached experience certificate in the format.</i>										
Selection criteria	i. Duration 1½ Hour for exam containing 90 questions. ii. No. of questions – There will be one paper containing 90 objective type questions with multiple choice (as interview carries 10 marks for the post of SDE). 03 times of the number of vacancies shall be shortlisted for interview for the post of Sub Divisional Engineer. iii. Distribution of question = The detail of written part to be conducted as under:- <table border="1"> <tr> <td>General English</td><td>10 Marks</td></tr> <tr> <td>General Knowledge</td><td>10 Marks</td></tr> <tr> <td>Mental Aptitude</td><td>10 Marks</td></tr> <tr> <td>Computer Proficiency</td><td>10 Marks</td></tr> <tr> <td>Job Related as per essential qualification.</td><td>50 Marks</td></tr> </table> iv. Each question will carry 01 mark. v. Negative marking = ¼ mark will be deducted for every wrong answer. vi. Medium of examination = English only. vii. The examination centre will be Chandigarh only. viii. Cut off marks for each category in each post will be 25% (i.e. minimum passing marks is 25% of the total marks).	General English	10 Marks	General Knowledge	10 Marks	Mental Aptitude	10 Marks	Computer Proficiency	10 Marks	Job Related as per essential qualification.	50 Marks
General English	10 Marks										
General Knowledge	10 Marks										
Mental Aptitude	10 Marks										
Computer Proficiency	10 Marks										
Job Related as per essential qualification.	50 Marks										

From the afore-said recruitment notice, it is evident that three years’ experience in Horticulture including ornamental gardening ranging over various fields of Horticulture, was one of the essential qualifications required for the said post of Sub Divisional Engineer (Horticulture). Thus, as per the representation (Annexure P-11) of the petitioner, she was aware that her candidature was rejected as she did not have three years’ experience, as

mentioned in the recruitment notice, for the post of SDE (Horticulture). Thus, the petitioner did not fulfill the required essential qualification.

9. It appears that the petitioner, under the garb of the instant writ petition, is seeking a roving enquiry into the selection process after participating in the same, moreso when no specific allegation against specific person has been made. Such a course is not permissible under the law. In this regard, reference can be made to the judgment rendered by the Hon'ble Supreme Court in ***Union of India and others v. S. Vinodh Kumar and others 2007(4) SCT 478***, wherein it has been held as under :-

“18. It is also well-settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same.”

10. In view of the above, there is no merit in the instant writ petition and the same is accordingly dismissed.

11. All pending application/s, if any, shall stand closed.

July 7th, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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