

2023:PHHC:106623

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

107+243

CWP-17619-2021 (O&M)

Date of Decision:17.08.2023

Ram Avtar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Ankur, Advocate for
Mr. Rajesh Khandelwal, Advocate for the petitioner.

Mr. Tapan Yadav, DAG, Haryana.

Mr. Balwinder Sangwan, Advocate for respondent No.3.

Mr. Paramjeet Phor, Advocate for respondent No.4.

Mr. Vinod Jangra, Advocate for respondent No.5.

HARSIMRAN SINGH SETHI J.(Oral)

CM-13336-CWP-2023

Application is allowed as prayed for.

The accompanying written statement on behalf of respondent No.4 is
taken on record subject to all just exceptions.

Main case

1. The present petition has been filed challenging the selection to the
post of Deputy District Attorney as advertised through the advertisement No.5
(2) dated 28.02.2017.

2. Learned counsel for the petitioner has raised only one argument that
as per the criteria fixed for evaluating the academic achievements of a

candidate, the petitioner has secured highest marks whereas he has not been given adequate marks in the interview, due to which he was declared unsuccessful for selection to the post in question, hence the non grant of marks commensurate to the capabilities of the petitioner in the interview is liable to be set aside and the respondents be directed to hold the interview afresh.

3. Learned counsel appearing on behalf of the respondents submits that the criteria which was framed by the department to short list the candidates for interview was applied upon all the candidates without there being any exception and in fact the petitioner secured the highest marks on the basis of the said criteria hence, the petitioner should not raise any grievance with regard to the criteria adopted by the respondents to short-list the candidates for interview.

4. Learned counsel for the respondents further submits that with regard to the grant of marks for the interview, the same have been done by the experts who had interviewed the petitioner and merely that the petitioner thinks he is more capable than the selected candidates, cannot be a ground to set aside the selection or to interview the petitioner afresh especially when there is no *mala fide* attached to the selection process undertaken.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It is a conceded fact that as per the criteria adopted by the Commission for short-listing the candidates for interview, the petitioner had secured the highest marks but it is only on the basis of the marks which the petitioner had got in interview, the petitioner could not get selected against the advertised post. Hence with regard to the short listing criteria adopted by the commission, the petitioner could not have raised any grievance being the most

meritorious candidate according to the said criteria.

7. Further, with regard to the argument of the learned counsel for the petitioner that the petitioner has not been evaluated properly in the interview, the same cannot be accepted for the reason that the petitioner was evaluated during the interview by the experts. There is no *mala fide* attributed against any of the expert that the petitioner was not given the marks which he deserves.

8. The judgment of the expert cannot be gone into by this Court so as to accept the argument of the learned counsel for the petitioner that the petitioner is more capable than as evaluated by the expert in the interview.

9. Further as per the settled principle of law, merely that a candidate has not emerged successful as a result of combined marks of academic qualification and interview marks, he/she cannot turn around and contend that process of interview was unfair and hence the selection cannot be treated as bad. The reliance can be placed on the judgment of the Hon'ble Supreme Court in Writ petition (Civil) No.546 of 1994 titled as ***Madan Lal & others VS. State of Jammu & Kashmir***, decided on 06.02.1995. Relevant para of the said judgment is reproduced as under:-.

9. *“Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being concerned respondents herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Upto this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the concerned Members of the Commission who interviewed the petitioners as well as the concerned contesting respondents. Thus the petitioners took a*

chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, that they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted. In the case of [Om Prakash Shukla v. Akhilesh Kumar Shukla and Ors.](#), (AIR 1986 SC 1043), it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.

10. Therefore, the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected at the said interview and who ultimately finds himself to be unsuccessful. It is also to be kept in view that in this petition we cannot sit as a Court of appeal and try to re-assess the relative merits of the concerned candidates who had been assessed at the oral interview nor can the petitioners successfully urge before us that they were given less marks though their performance was better. It is for the Interview Committee which amongst other consisted of a sitting High Court Judge to judge the relative merits of the candidates who were orally interviewed in the light of the guidelines laid down by the relevant rules governing such interviews. Therefore, the assessment on merits as made by such an expert committee

cannot be brought in challenge only on the ground that the assessment was not proper or justified as that would be the function of an appellate body and we are uncertainly not acting as a court of appeal over the assessment made by such an expert committee.”

- 9 Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.
10. Dismissed.
11. Pending application(s), if any, shall also stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

17.08.2023

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