

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

Date of decision : 16th of February, 2023

CWP No.2003 of 2017 (O&M)

Dilbag Singh

....Petitioner

Versus

State of Punjab and others

...Respondents

CWP No.2781 of 2017 (O&M)

Rajiv Kumar

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. G.S. Ghuman, Advocate
for the petitioner(s).

Mr. Rajesh Mehta, Addl. Advocate General, Punjab.

Mr. S.S. Bhinder, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J.

By way of this order I intend to dispose off aforesaid two writ petitions as both of them involve similar question of law in the background of identical set of facts.

2. Prayer is for issuance of a writ in the nature of certiorari to quash the result compiled by selection committee Annexure P-27 and

the appointment letters issued to respondent Nos.5 and 6. Petitioner further prays for issuance of writ in the nature of mandamus directing the respondents to issue appointment letters to the petitioners for any post as advertised in the Public Notice dated 6th of November, 2015.

3. For brevity, the facts are being culled out from CWP No.2003 of 2017.

4. State of Punjab vide Act No.5 of 2015 notified on 12th of February, 2015 established and incorporated Maharaja Ranjit Singh State Technical University i.e. respondent No.2. Vide Public Notice dated 6th of November, 2015, respondent No.2 invited applications for recruitment to the various posts of non-teaching staff. Public Notice has been placed on record as Annexure P-2. Petitioner considering himself eligible applied. As provided written test was conducted and on the basis of result of the written test short listed candidate were called for interview. The result of the candidates who appeared before the Selection Committee has been placed on record at Annexure P-24. It is against that result that the petitioner is aggrieved and has approached this Court.

5. The sole contention raised by the Counsel during the course of hearing is based upon Annexure P-24 i.e. the general comparative analysis of eight candidates finally interviewed on 27th of September, 2016 for the post of Deputy Registrar/Controller of

Examination. Counsel submits that a perusal thereof would lead to inevitable conclusion that the petitioner has been dealt with by the Selection Committee prejudicially and has been awarded only 1 mark in interview even though he outclassed appointed candidates in written test. He obtained maximum out of total marks of 70 prior to interview round. Reliance is being placed upon law laid down by the Apex Court in **K Manjusree vs. State of Andhra Pradesh and another, (2008) 3 SCC 512.**

6. Per contra, Counsel for the respondent has argued that the writ petition is totally misconceived. The total marks secured by the candidates out of 70 barring interview marks would reveal that all the candidates are closely placed and there is hardly a difference of 1 or 2 marks. It has been stated that it was only in the interview the petitioner could not fair well and secured only 1 mark against 15 marks secured by the candidate appointed in General category and 3 marks secured by the person appointed in SC category.

7. I have heard counsel for the parties and have gone through records of the case.

8. The comparative chart of the candidates who appeared for the final interview round reads as under :-

Name	Category	Written Test Marks Out of 50	Academic Marks (P.G.) Out of 20	Experience Marks Out of 10	Total Out of 70	Interview Marks Out of 20	Result	Total Out of 90 Marks
Agyapal Singh	G	20.25	14.14	-	34.39	15	Selected at No 1 General	49.39
Baljit Kumar	G	20	11.52	-	31.52	13	Wait Listed No.1 General	44.52
Deepak Kumar	G	22	12.62	-	34.62	7		41.62
Dilbag Singh	S.C.	21.5	12.85	-	34.35	3		37.35
Gagandeep Singh	G	20.75	12.22	-	32.97	6		38.97
Manpreet Singh	G	21.5	12.68	-	34.18	5		39.18
Parmjit Kaur	G	21.75	12.98	-	34.73	14	Selected at No 2 General	48.73
Rajiv Kumar	S.C.	23.75	13.22	-	36.97	1		37.97

9. Though the petitioner secured maximum marks in written test but he was behind respondent No.5 in academic marks. Interview marks would show that he lagged far behind. A bare perusal of interview marks reveals that there is nothing that can lead to inference that the same were awarded to oust a particular candidate and to favour anyone.

10. Trite it is that writ Court will be slow to interfere in the subjective satisfaction of selection board. Reference can be made to law laid down by Division Bench of this Court in case of **Anu Radha vs. State of Haryana and others, reported as 2010 (2) SLR 662**, wherein it was observed as under:-

“xx xx xx

19. An administrative or quasi judicial body such as a Selection Committee has normally to be left to devise its own procedure, subject to the same being fair and reasonable. Selection has to be made by assessment of relative merits. It is not necessary to give any reasons for the assessment. Reference may be made to judgments of the Hon'ble Supreme Court in **Union of India v. M.L. Capoor and others, AIR 1974 Supreme Court 87, National Institute of Mental Health and Neuro Sciences v. Dr. K. Kalyana Raman, 1992(3) SCT 488 : AIR 1992 Supreme Court 1806, para 7 and Mohan Kumar Singhania v. Union of India, 1992(1) SCT 546 : AIR 1992 Supreme Court 1**. Though, the selection authority has to be given free play in joints, the power of awarding marks in interview is coupled with the duty to select the best and cannot be exercised arbitrarily.

20. Judicial review is basic structure of the Constitution. Its depth depends on nature of decision. No decision may be exempt from judicial review except decisions such as employment of troops and entering into international treaties (**State of N.C.T. of Delhi v. Sanjeev, 2005(2) Apex Criminal 338 : AIR 2005 Supreme Court 2080**).

Scope of judicial review extends to remedying injustice wherever found. Power exercised by any public authority is for the purpose for which the same is conferred. No authority can function arbitrarily or mala fide. (**Dwarka Nath v. I.T.O. Special Circle, D. Ward Kanpur and anr., AIR 1966 Supreme Court 81, Hochtief Gammon v. State of Orissa & Ors., AIR 1975 Supreme Court 2226, Comptroller and Auditor General of India v. K.S. Jagannathan, (1986)2 SC 679, Para 18-20, Kumari Shrilekha Vidyarthi etc. v. State of U.P. & ors., 1991(1) SCT 575 : AIR 1991 Supreme Court 537, Epuru Sudhakar v. Govt. of A.P., 2006(4) RCR (Criminal) 616 : 2006(3) Apex Criminal 447 : (2006)8 SCC 161, Rameshwar Prasad (VI) v. Union of India, AIR 2006 Supreme Court 980, Express Newspapers Pvt. Ltd. v. UOI,**

AIR 1986 Supreme Court 872 and S. Partap Singh v. State of Punjab, AIR 1964 Supreme Court 72). With expanding scope of judicial review, there are instances of interference even in cases earlier considered to be purely executive functions. In **Center for Public Interest Litigation v. Union of India, 2005(4) RCR (Criminal) 707 : 2005(4) SCT 603 : 2005 (3) Apex Criminal 711 : AIR 2005 Supreme Court 4413,** appointment of Chief Secretary was set aside with the observation that on sensitive posts, appointments must be transparent and of persons above any suspicion. In **Prakash Singh and others v. Union of India and others, 2006(4) RCR (Criminal) 439 : 2006(3) Apex Criminal 359 : 2006(8) SCC 1,** directions in the matter of police reforms were issued. Appointments to Public Service Commissions had to be of persons of integrity. However, in the present case, we are not directly concerned with appointment of members of the Commission but only with the issue of selection being on merits. This is possible only when persons of high integrity are appointed as Chairman or members of Public Service Commission. The observations of the Hon'ble Supreme Court, commenting upon unsatisfactory state of affairs of appointments to the commissions have already been referred to in this regard.

21. In **M.V. Thimmaiah and others v. Union Public Service Commission and others, 2008(1) SCT 569 : 2008(1) RAJ 493 : (2008)2 SCC 119, para 21,** principles for judicial review of recommendations of Selection Committee were reviewed and it was observed that scope for interference was limited to situations where selection is actuated by mala fides and violation of statutory provisions. After referring to judgments in **Surya Dev Rai v. Ram Chander Rai, 2004(1) RCR (Civil) 147 : AIR 2003 Supreme Court 3044, P.M. Bayas v. Union of India, 1993(3) SCT 111 : (1993) 3 SCC 319, Ashok Kumar Yadav v. State of Haryana, (1985)4 SCC 417, Ajay Hasia v. Khalid Mujib Sehravardi, (1981)1 SCC 722, UPSC v. S.**

Thiagarajan, 2007(2) SCT 187 : 2007(1) RAJ 926 : (2007)9 SCC 548, G. Sarana (Dr.) v. University of Lucknow, (1976)3 SCC 585, Kunda S. Kadam v. Dr. K.K. Soman, (1980)2 SCC 355, Ashok Nagar Welfare Assn. v. R.K. Sharma, 2002(1) RCR (Civil) 512 : (2002)1 SCC 749, Union of India v. Mohan Lal Capoor, (1973) 2 SCC 836, Lila Dhar v. State of Rajasthan, (1981)4 SCC 159, R.S. Dass v. Union of India, 1986 Supp SCC 617, State of U.P. v. Rafiquddin, 1987 Supp SCC 401, UPSC v. Hiranyalal Dev, (1988)2 SCC 242, Mehmood Alam Tariq v. State of Rajasthan, (1988)3 SCC 241, Dalpat Abasaheb Solunke v. Dr. B.S. Mahajan, (1990)1 SCC 305, National Institute of Mental Health and Neuro Sciences v. Dr. K. Kalyana Raman, 1992(3) SCT 488 : 1992 Supp (2) SCC 481, Indian Airlines Corpn. v. Capt. K.C. Shukla, 1992(3) SCT 740 : (1993)1 SCC 17, C.P. Kalra v. Air India, 1994 Supp (1) SCC 454, Anil Katiyar v. Union of India, 1997(2) SCT 157 : (1997)1 SCC 280, All India State Bank Officers' Federation v. Union of India, 1997(1) SCT 91 : (1997) 9 SCC 151, Union of India v. N. Chandrasekharan, 1998(1) SCT 631 : (1998)3 SCC 694., Inder Parkash Gupta v. State of J&K, 2004(2) SCT 680 : (2004)6 SCC 786, K.H. Siraj v. High Court of Kerala, 2006 (3) SCT 146 : (2006)6 SCC 395, it was concluded :-

"22. Keeping in view the ratio laid down by this Court in several decisions, now we shall examine the argument of learned Senior Counsel for the appellants which had been addressed. But we may at the very outset observe that the Court while considering the proceedings of the Selection Committee does not sit as a court of appeal. Courts have limited scope to interfere, either selection is actuated with mala fide or statutory provisions have not been followed....."

22. From the survey of above case law, it is clear that while Selection Committee can devise its own procedure, the same has to be fair and reasonable having

nexus to the object of selecting the best. Criteria adopted by Selection Committee is open to judicial review on well known grounds of illegality, irrationality and impropriety.”

11. In view of the afore-settled proposition of law, this Court does not find that any circumstance has been pointed out by the counsel for the petitioner(s) that can lead to conclusion that the selection is actuated by *mala fide* or is in violation of statutory provisions. Selection Authority definitely has to be given free play in joints, the power of awarding marks in interview is coupled with the duty to select the best and the only scope of judicial review is when the same has been exercised arbitrarily or is punctuated with *mala fides*. In the absence of any such circumstance in the present case exercise of writ jurisdiction is not warranted.

12. Finding no merit in the present writ petitions, the same are ordered to be dismissed.

13. Pending application, if any, shall also stand disposed off.

14. A copy of this order be kept on the file of other connected case.

February 16, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No