

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25085-2015

Date of decision : 30.01.2023

Bikramjeet Singh

..... Petitioner

versus

The Baba Farid University of Health and Sciences and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

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

Mr. Karan Singh Sandhu, Advocate
for respondents No.1 and 2.

Mr. H.C. Arora, Advocate
for respondents No.3 to 6.

PANKAJ JAIN, J. (Oral)

Present petition has been filed impugning the appointment of respondents No.3 to 6 being illegal and unsustainable in the eyes of law.

2. Respondent No.1 vide public notice dated 13.06.2014 invited applications from the eligible candidates for filing up various vacant posts on Regular/Adhoc/Contract basis including 04 regular posts of Psychiatric Social Workers in pay scale of Rs.10300-34800+4200 grade pay. As per the public notice, the minimum required qualification/desired qualification for the said post reads as under:-

**“8. Psychiatric Social Worker- M.A.
Sociology/Psychology or M.Sc Social**

Anthropology or Master or Social work or equivalent degree from the recognized University. Work experience of two years in the field of family counselling, drug de-addiction, family welfare, community health work, medical and Psychiatric setting, therapies practices and rehabilitation service. Preference will be given to the candidate possessing Ph.D. Degree in the relevant field.”

3. Petitioner was one of the applicants. As per the records, 37 applications were received. Out of which, 29 candidates were found to be eligible and called for interview. Admittedly, the petitioner was among 29 eligible candidates who were interviewed. Selection Committee on the basis of performance in the interview selected private respondents. The petitioner was placed at Sr. No.1 in the waiting list.

4. The precise contention raised by counsel for the petitioner is that there was no criteria framed for assessing relative merits of the candidates in a selection process where only interview was made the basis. Thus, the selection suffers from the vice of being unjust and arbitrary and thus cannot be sustained.

5. Facts are not much in dispute as the authorities do not dispute the fact that there was no criteria formulated to assess the relative merit of the candidates during the process of interview. However, it has been forcefully submitted that the Selection Committee was unanimous in its decision. On a pointed query being put to the counsel representing the University as to what was the basis for such unanimous decision, counsel fairly submits that it was

merely subjective satisfaction of the members as no marks/criteria is forthcoming. On 28.07.2022, this Court directed respondent No.1 to file affidavit w.r.t. academic and other qualifications of the selected candidates and the basis of their selection. The same has been filed. Comparative chart showing academic qualifications as well as experience of the selected candidates, vis-a-vis petitioner has been tabulated as under:-

Petitioner/ Respondents	Name	Academic Qualification	Experience	Remarks
Petitioner	Bikramjeet Singh	B.Sc (IT) and M.Sc (Psychology)	2 years 3 months	Ph.D. Has not been completed at the time of interview and experience of 2 years and 3 months having no edge on the selected candidates.
Resp No.3	Harinder Singh Aulakh	B.A. and MA (Social Work)	7 years 11 days	More experience than petitioner
Resp No.4	Dr. Gurleen Kaur	Bachelor of Dental Surgery (BDS) and Master in Social Work	2 years 1 months weeks	She is Dental Doctor (5 years Graduation) and having knowledge in the Medical field. Respondent has also obtained higher marks in her academic qualifications than the petitioner.
Resp No.5	Kulwinder Singh	B.A., MA (Social Work), B.Ed	10 years 3 months	More experience than petitioner
Resp No.6	Jarnail Singh	B.A., MSc (Psychology)	2 years	The respondent has obtained higher marks in his all academic qualifications than the petitioner. Moreover, respondent has been selected under Schedule Caste Category.

A bare perusal of the aforesaid chart would reveal that there is no material difference between the qualifications of the candidates. Respondents No.4 and 6 are rather less experienced as compared to the petitioner.

6. In response by the University, it has been claimed as under:-

“xx xx xx

8. It is submitted that the eligibility criteria for the post of Psychiatric Social Worker was clearly mentioned in the advertisement (Annexure P- 2). The petitioner was fully aware of the eligibility criteria for the above mentioned post. It is further submitted that 37 candidates applied for the post of Psychiatric Social Worker in pursuant to the above mentioned advertisement. Out of the 37 candidates only 29 were found eligible to be called for the interview. The University Vice- Chancellor constituted the Selection Committee to conduct the interviews for the above mentioned post. The composition of the Selection Committee was as under:

Dr. D.S. Sidhu Registrar, Baba Farid University of Health Sciences, Faridkot.	Chairman
Dr Gurmeet Kaur Principal, Guru Gobind Singh Medical College & Hospital, Faridkot.	Member
Dr. J. P. Singh Medical Superintendent, Guru Gobind Singh Medical College & Hospital, Faridkot.	Member

Dr. S. P. Singh Professor, Department of Ophthalmology, Guru Gobind Singh Medical College & Hospital, Faridkot.	Member
Dr. Neerja Jindal Pressor, Department of Microbiology, Guru Gobind Singh Medical College & Hospital, Faridkot.	Member
Dr. Mamta Bahetra, Assistant Professor (Clinical Psychology), Department of Psychiatry, Guru Gobind Singh Medical College & Hospital, Faridkot.	Member
Dr Satish Thapar, Assistant Professor & Head, Department of Psychiatry, Guru Gobind Singh Medical College & Hospital, Faridkot	Member

The selection of the post of Psychiatric Social Worker is a cumulative assessment of the academic record, experience and performance in the interview and overall suitability of the candidate for the post. The selection of respondent no. 3 to 6 has been made by the Selection Committee in absolute good faith and with complete fairness, purely on the basis of the performance of the candidates and assessment by the selection committee of all aspects such as their personality, knowledge, academic qualification, work experience and other skills enhancing the suitability of the candidates for the post of Psychiatric Social Worker. The selection

committee's proceeding dated 28.8.2014 are? attached as **Annexure A-6.**

9. That the petitioner at the time of submission of his application had only two years and three months of experience in the field as Counselor. It is pertinent to mention here that the petitioner with his application form stated that he worked as Counselor from 14.4.2010 to till date i.e. 26.6.2014 at Navjiwan Rehabilitation Centre, Patiala but his employer issued him experience certificate stating that he worked as Counselor for the last two years and three months. It is also submitted by the petitioner that he worked as Project Fellow (UGC) at Punjabi University, Patiala from 13.04.2010 to 11.04.2012.”

7. In the background of the aforesaid facts, the question that arises before this Court is: whether the process followed by respondents to select candidates for the vacant posts in question can be said to be reasonable, just and fair.

8. Counsel appearing for the University relies upon law laid down in '***Madan Lal and other vs. State of Jammu and Kashmir reported as 1995(3) SCC 486***' to submit that once the candidate has participated in the selection process, he is estopped for challenging the same. He further relies upon Division Bench judgment of this Court in the case of '***Anu Radha vs. State of Haryana and others reported as 2010(2) SLR 662***' wherein in para 30 and 34, the Court held that the Select Committee was not required to sub-divide the marks in interview and further held that the selection merely on the basis of interview per se cannot be held to be illegal.

9. Mr. Arora appearing for the private respondents submits that the selection pertains to the year 2014. There are no malafides levelled against the petitioner and there is no allegation that the selection process was barred by fraud etc. Thus, the private respondents having worked for more than 08 years, it would not be in the interest of justice to dislocate them. He further submits that even if the selection does not find favour with the Court, the Court should allow the petitioners to participate in the fresh selection process and to continue till appointments pursuant thereto are made.

10. So far as plea w.r.t. estoppel against the petitioner for having participated in the selection process is concerned, the law now stands settled in Apex Court in the recent judgment of '**Dr. (Major) Meeta Sahai vs. State of Bihar and others, 2019(2) SCC 17**' wherein it has been held that if the candidate appears in the selection process, he concurs for the same but not for the illegality in the same. Thus, the reliance placed by counsel representing the University on **Madan Lal's case (supra)** is misconceived.

11. In the present case, public post in the University were put for recruitment. 29 candidates were found to be eligible being in possession of requisite qualification. Interview was the sole criteria. As held in **Dr. Keshav Ram Pal vs. U.P. Higher Education Services Commission, AIR 1986 SC 597** and **Anzar Ahmed vs. State of Bihar and others 1994 (1) SCC 150**, the selection merely on the basis of interview itself cannot be held to be bad. Counsel representing University is right to assert that the selection cannot be quashed merely for the reason that the same was made only on the basis of

interview. However, he does not dispute the fact that the selection has to be fair and has to pass the test of reasonableness having its traces in Article 14 of the Constitution of India.

12. There cannot be denial to the fact that the essence of selection is assessment of relative merit. A Selection Committee is at liberty to devise its own procedure but subject to the same being fair and reasonable. The selection authority has to be given free play in joints, but the power of selection is casted with the duty to select the best and the same cannot be exercised arbitrarily. Taking leaf from law laid down by the Division Bench in the case of *Anu Radha (supra)*, it is clear that the criteria adopted by Selection Committee is open to judicial review on well known grounds of illegality, irrationality and impropriety. Selection process may not be marred by impropriety, yet can be illegal and arbitrary.

13. The question is as to how the Selection Committee assessed the comparative merit of the candidates who appeared before them? The answer is missing. Apart from merely asserting and reiterating that it was cumulative decision taken by the Selection Committee, the basis of such decision is conspicuously absent. In fact, it has been fairly conceded in the affidavit filed on behalf of the University that there is none. Once the Selection Committee admits that no marks were awarded for interview and interview was the sole selection criteria, it is incomprehensible for this Court to fathom as to how Selection Committee made the selections.

14. Trite it is that a decision which is unreasonable or irrational cannot be termed to be lawful. In order to minimize the subjectivity and to rule out the arbitrariness in the selection process, the least the Selection Committee was required is to at least choose a scale on which it wanted to measure the relative merit of the candidates. In whole of the selection criteria, the scale and measure both are missing. Leave aside distribution of marks, no marks have been awarded. In absence of marks, how a Selection Committee reached at the appointed candidates ignoring the others is a mystery.

15. Keeping in view the aforesaid fact, this Court is left with no other choice but to say that the selection process w.r.t. the post of Psychiatric Social Workers pursuant to P-1 cannot be said to be reasonable, just and deserves to be quashed.

16. Consequently, the present writ petition is allowed. Whole of the selection process pursuant to Annexure P-1 qua the post of Psychiatric Social Workers and the consequential appointment of respondents No.3 to 6 are found to be illegal and the same are ordered to be set aside. So far as the fresh selection process is concerned, the same is solely within the domain of respondent No.1 who may decide and act in accordance with law.

17. Once this Court is of the considered opinion that selection process was in violation of the Article 14 and 16 of the Constitution of India and was unfair, it would not be in the fitness of things for this Court while exercising writ jurisdiction under Article 226 to allow continuation of respondents No.3 to 6 on the public post.

Thus, request made by Mr. Arora sans merit and is rejected.

18. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

30.01.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : Yes