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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.

Date of Decision : 29.11.2023
CWP-8090-2017

Hari Om Sharma and another

....Petitioners

Versus

State of Haryana and others

.....Respondents

2.

CWP-25078-2014

Jasbir Saini

....Petitioner

Versus

State of Haryana and others

.....Respondents

3.

CWP-26388-2014

Pramod

...Petitioner

Versus

State of Haryana and others

.....Respondents

4.

CWP-17961-2014 (O&M)

Parveen Kumar and others

....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. J.S. Maanipur, Advocate, with
Ms. Harpreet Kaur, Advocate, for the petitioner
in CWP No.8090-2017.

Mr. Jainainder Saini, Advocate, for the petitioners
in CWP No.17961 of 2014.

Mr. Subhash Ahuja, Advocate and
Mr. Karanveer Ahuja, Advocate for the petitioners
in CWP No.25078 of 2014.

Ms. Kamaldeep Kaur, Advocate, for
Mr. Adarsh Jain, Advocate, for the petitioners
in CWP-26388-2014.

Mr. Tapan Kumar Yadav, Deputy Advocate General,
Haryana.

Mr. Sanjay Kaushal, Senior Advocate with
Mr. Vijay Pal, Advocate and Mr. Ishaan Bhardwaj, Advocate,
for private respondents in CWP-8090-2017.

Mr. Ravi Yadav, Advocate and Mr. Varun Gupta, Advocate
for the respondents.

Mr. D.S. Patwalia, Sr. Advocate, with
Mr. A.S. Chadha, Advocate, for the private respondents.

Ms. Monika Khatri, Advocate, for
Mr. Vivek Khatri, Advocate, for respondent No.894
in CWP No.8090-2017.

Mr. Parvesh Malik, Advocate for
Mr. K.S. Dhaliwal, Advocate, and Mr. Jatin Kundu, Advocate,
for respondents No.144, 249 and 396.

Mr. Anurag Goyal, Advocate and
Mr. Amit Rao, Advocate, for private respondents
in CWP-17961-2014 and CWP-8090-2017.

Harsimran Singh Sethi, J. (Oral)

1. By this common order, the bunch of four writ petitions, details of which have been given in the heading, are being disposed of as all the writ petitions involve same question of law on similar facts. For the purpose of present petition, the facts are being taken from **CWP-8090-2017**.

2. The respondents-State issued an advertisement on 06.12.2011 for recruitment to the post of Patwari, wherein 102 posts in different categories were to be filled up. In the advertisement, certain terms and conditions were mentioned to be fulfilled by a candidate including the minimum qualification required for the post in question. After completion of the selection process, the respondent-department selected the candidates for the post of Patwari and granted them consequential appointment.

3. The petitioners are aggrieved against the said selection of certain candidates selected by the respondent on the ground that terms and conditions mentioned in the advertisement have been violated while selecting and appointing those candidates to the post of Patwari.

4. Learned counsel for the petitioner argues that as per the terms and conditions relating to the documents to be attached with the application form and the note given therein, the application was required to be complete in all respects and the application being submitted should be signed by the candidate and an incomplete application was to be summarily rejected. Learned counsel for the petitioner further submits that even in the format of the application form, below the signatures, where the candidate who is applying for the post has to append his/her signatures, it was mentioned that in case there are no signatures, the application form will be rejected. Hence, the selected candidates, who did not sign their application form, still have been selected, which action of the respondents is contrary to the terms and conditions of the advertisement, hence, the selection of such candidates was liable to be set-aside.

5. Learned counsel for the petitioners further submits that some of the candidates, who had appended certificates either to participate in a

particular reserve category or has attached a sports certificate or any other certificate to claim any benefit, those attached documents have also not been verified by the respondents as to whether they were genuine or not, which action of the respondents shows that selection has been made in a process which is not transparent and the selection has been made in an arbitrary manner and contrary to the provisions of the advertisement itself.

6. Learned counsel for the respondents submits that no particular example has been cited by the petitioners to support their claim. Learned State counsel further submits that the selection for the post in question has been made in a process required and in accordance with the terms and conditions of the Advertisement and therefore, the bald statement made by the petitioners to term the selection as arbitrary, is liable to be rejected.

7. Controverting, the claim of the respondent-State, the learned counsel for the petitioner submits that the information which has been supplied to them under the RTI Act, which includes the application form of the certain selected candidates, copy of which has been appended as Annexure P-14, clearly shows that those application forms have not been signed by the candidates which proves that there was a clear violation of the terms and conditions of the advertisement. Learned counsel submits that once the photocopy of the application form as supplied by the respondents themselves under RTI shows the discrepancy, the argument of the learned State counsel that the petitioners are not supporting their claim on the basis of the evidence, is incorrect.

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

9. The only question which has been raised before this Court is

whether the terms and conditions of the advertisement have been violated by the respondents while making selection to the post of Patwari. The relevant clause of the advertisement, which is being alleged to have been violated, is as under:-

“The candidates are advised that the photocopy of all the qualifications should be attached with application form.

Note: *An application form will be summarily rejected in the following events:*

- (i) *If a candidate makes more than one application for a particular category.*
- (ii) *If the application is not in the prescribed format appended with this advertisement.*
- (iii) *If the application is unsigned/incomplete.*
- (iv) *If full fee is not deposited in the manner prescribed or proof thereof not attached.*
- (v) *if the application is not sent through Registered Post.*
- (vi) *If the experience certificate is without detail of salary per month received (wherever the condition of experience apply).*
- (vii) *If the application is received in Commission's office after the closing date, HSSC will not be responsible for any postal delay.*
- (viii) *If a candidate does not possess the qualification of Hindi/Sanskrit up to Matric Standard/Higher Standard.*
- (ix) *If a candidate does not possess the requisite academic qualification on the cut off date.*
- (x) *If a candidate is underage/overage on the cut off date.*
- (xi) *if a candidate does not indicate visible identification mark in column 13 of the application form.*

10. A bare perusal of the above condition of the advertisement would show that all the applications must be undersigned and the certificates required to show the eligibility should also be attached alongwith the application form and in case, any information is found to be

incorrect, the candidature of a candidate, is liable to be rejected. From a bare perusal of Annexure P-14, which are the application forms of certain candidates, who has been stated to be selected for the post in question, they are not signed. *Prima facie*, it is the duty of the respondent-department to adhere to the terms and condition of the advertisement as the terms and conditions of the advertisement are sacrosanct and are applicable upon each and every candidate appearing in the selection process.

11. Not only this, even the document which has been appended by a particular candidate, are genuine or not, are to be verified by the Department concerned before appointment is offered so as to ensure that no candidate who is not fulfilling the required qualification, is appointed or gets the benefit of a particular reserved category.

12. That being the factual aspect, the present petition is disposed of with the direction to the respondent-State to hold an inquiry into the selection process to the post of Patwari. Let the application forms of all the selected candidates be scrutinized as to find out whether they violate any provision/terms and conditions of the advertisement or not. Further, in case any candidate has attached some document to claim eligibility or benefit of a particular reserved category or some other benefits under selection process, the same should also be verified from the department concerned so as to adjudge the genuineness of the said document as attached by a particular candidate. After the said inquiry, due opinion be recorded in the form of an inquiry report qua any irregularity/illegality, which has crept in while conducting the selection process.

13. If after the opinion so formed, *prima facie* the department is of the view that certain candidates have violated the terms and conditions of

the Advertisement, the same be put to the candidate concerned and only after getting the appropriate reply from the concerned candidate and considering any objection raised by the candidate, the department will be free to take appropriate action qua a particular candidate.

14. In case, after the enquiry process is over, the department finds that certain appointments were made in violation of the terms and conditions of the advertisement and certain post becomes vacant, the claim of the candidates in order of merit, who could not be selected and appointed, will be considered by the respondent. It may be noticed that to appoint such candidates or not at this belated stage, will be the decision of the department concerned but the said decision should be based upon due and valid reasons.

15. As requested, four months' time is granted to the respondent-department to conclude the inquiry as envisaged in the present order. Any action to be taken on the basis of the inquiry report be also completed within a further period of eight weeks.

16. It is recorded that no other points/argument was raised during the hearing.

17. Photocopy of this order be placed on the files of other connected cases.

29.11.2023

ps-I

(HARSIMRAN SINGH SETHI)

JUDGE

Whether reasoned/speaking?

Yes

Whether reportable?

No