

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 229)

(1)

CWP No. 32597 of 2019
Date of Decision : 29.08.2023

Manjeet

...Petitioner

Versus

State of Haryana and others

...Respondents

(2)

CWP No. 3894 of 2019

Ashutosh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. Aman Pal, Advocate for the petitioner
 in CWP-32597-2019.

 Ms. Gauri C. Kaushal, Advocate for the petitioner
 in CWP-3894-2021.

 Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

 Mr. Kanwal Goyal, Advocate for the respondent-HPSC.

 Mr. Sajjan Singh, Advocate and
 Mr. Atul Siwach, Advocate for
 respondent No. 29 in CWP-32597-2019.

Harsimran Singh Sethi J. (Oral)

By this common order, two writ petitions, the details of which have been given in the heading, are being decided as these petitions involve the same question of law on similar facts.

The present petitions have been filed challenging the selection, which have been made to the post of Naib Tehsildar, Class-A (Apprentices) Gazetted Class-II (Group-B) as advertised vide Advertisement No. 1/2015 dated 23.07.2015 (Annexure P-1) followed by the corrigendum, which was issued in May, 2018.

As per the advertisement, 70 posts of Naib Tehsildar, Class-A (Apprentices) Gazetted Class-II (Group-B) were advertised, which were in various categories. Essential qualifications were given in the Advertisement to be eligible to compete and as per the advertisement, the last date of filling up the form was 15.05.2018.

The petitioners, who were fully eligible under the said advertisement, applied in the General Category, wherein, 34 posts were available. One of the post in General Category was reserved for the physical handicap candidate. Keeping in view the fact that number of posts were fixed and large number of candidates had applied for the post in question, the respondents issued a notice for holding a recruitment test, copy of which notice has been appended as Annexure P-3. The said recruitment test was to be held on 26.05.2019 at various Educational Institutions. Petitioners appeared in the said recruitment test and were declared successful and were ultimately called for viva voce. After the

viva voce, the respondents prepared a result in which result, the petitioners could not get selected keeping in view the number of posts advertised. The challenge in the present petitions is that the criteria, which has been adopted by the respondents while making the selection list, is not as per the criteria, which was advertised initially and the process of the recruitment has been changed by the respondents, which has caused prejudice to the petitioners.

Upon notice of motion, the respondents have filed the reply, wherein, it has been mentioned that keeping in view the large number of applications received, a recruitment test was held and the candidates, who cleared the recruitment test were called for further selection process and they were all evaluated on the basis of the same criteria, which was followed for all the candidates. The said criteria, which has been put in operation, according to the respondent-Commission, was framed immediately prior to the interviews so as to maintain secrecy qua the marks obtained by a candidate in the written test and the marks, which a candidate will get in interview so as to hold a fair selection.

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

The only contention, which has been raised by the petitioners in the present petitions is that the selection criteria has been changed in a mid-way, which has caused prejudice to the petitioners. As per the respondents, the criteria which has been adopted by the respondents was only framed prior to the holding of the interview, hence,

any criteria framed after the written test and before the interview, cannot be held to be a valid one.

It may be noticed that the Haryana Public Service Commission (hereinafter referred to as 'the Commission') has been making recruitment to the various posts., The Commission had also advertised the post of Horticulture Development Officer, selection to which post was also done by the respondent-Commission. In the said selection process also, there was a recruitment test to shortlist the candidates and thereafter, the criteria was framed to evaluate the candidature of all the candidates, who were allowed to proceed further and thereafter, a selection list was framed for all the selected candidates. In the said recruitment also, the same question arose as to whether, a criteria which was framed immediately prior to the holding of the interview and after the written examination, is a valid action on the part of the Commission or not.

A Co-ordinate Bench of this Court while dealing with the said selection made to the post of the Horticulture Development Officer came to the conclusion that a criteria, which was framed immediately before the interview and which was made applicable upon all, is perfectly valid and legal and the contention that the criteria was changed after holding of the written test, cannot be accepted as, the criteria for the first stage was evolved by the respondents before the interview.

Aggrieved against the judgment of the Co-ordinate Bench of this Court in CWP No. 22531 of 2020 titled as ***Kapil Vs. Haryana***

Public Service Commission and others, decided on 20.04.2021, an LPA was filed being LPA No. 838 of 2021, which came to be decided on 01.11.2021. The Division Bench came to the conclusion that changing of a criteria in between the recruitment process and framing of a criteria for the first time after the written examination and before the interview stand on different footings and any criteria made for the first time after the written test but before the interview to evaluate the candidate cannot mean that there is the change of criteria. The LPA filed against the judgment of the learned Single Judge was dismissed and the order passed by the Co-ordinate Bench in ***Kapil's case (supra)*** was upheld. Relevant paragraph of the said judgment is as under :-

“After hearing counsel for the appellant, this Court is of the opinion that the reasons given by the Learned Single Judge were well justified. Nothing can be shown to the effect that the criteria was changed after the process was set into motion and rather, it was only fixed at the relevant point of time, before the written examination and when the interview was to take place.”

In the present case, the situation is the same. Nothing has been brought to the notice of this Court that any criteria was fixed while issuing the advertisement or before holding the written test. Only declaration in the Advertisement is that selection will be made on the basis of the written examination followed by viva voce. Before the viva voce, a criteria was framed by the respondent-Commission to evaluate all the candidates, which included the marks of the written examination as well as qua higher qualifications having obtained by a candidate.

It may be noticed that the criteria fixed in the present case was akin to the criteria fixed in *Kapil's case (supra)*. Hence, once in a similar circumstances, the criteria framed and the process adopted by the Commission has been upheld, there is no reason that why in the present case, a different view is taken.

In the present case also, there was no criteria fixed prior to the criteria evolved by the respondents prior to the holding of the interview so as to infer that the criteria was changed mid-way so as to accept the contention of learned counsel for the petitioners.

Further, it may be noticed that both the petitioners have participated in the selection process under the orders of the Court. Keeping in view the provisional result, which has been brought before this Court, the petitioners have not been able to secure the minimum marks as secured by the last candidate selected in the category in which the petitioners were competed, hence, even in this regard also, as the petitioners have already been allowed to compete, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

Both the petitions are dismissed.

Any civil miscellaneous application pending, if any, is disposed of as such.

August 29, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

