

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

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2023:PHHC:161328-DB
CM-20964-CWP-2023 in/and
CWP-33883-2019
Date of Decision: 15.12.2023

Sukhwinder Singh

.....Petitioner(s)

Versus

High Court for the States of Punjab and Haryana and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Amrik Singh, Advocate,
for the petitioner.

Mr. Kanwal Goyal, Advocate,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

1. With the consent of counsel for the parties, the main case is pre-
poned from 25.01.2024 to today and taken up for hearing today itself.

2. The present writ petition has been filed under Articles 226 and
227 of the Constitution of India praying for issuance of a writ in the nature of
certiorari for quashing Rule 10(bb) of The Punjab Superior Judicial Service
Rules, 2007 (in short 'the Rules') and the condition incorporated in the
notification dated 30.05.2019 (Annexure P-1), the petitioner being aggrieved
with the condition to attach the proof of independent engagement and of
conducting not less than 50 cases per year for the last preceding 3 years each
which has been prescribed for all the candidates.

3. The grouse of the petitioner apparently is on the ground that he is
working as Additional District Attorney in the State of Punjab. The objection
has been taken to the said clarification/condition in the notification dated
30.05.2019 (Annexure P-1) which is offensive to the petitioner which reads

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“Rule 10(bb) The applicant shall be an income tax assessee for a period not less than three assessment years (preceding the date of application), with gross professional income of not less than rupees five lakhs per annum. The applicant shall also be required to attach the proof of his independent engagement and conducting of not less than fifty cases (other than bunch cases) for general categories and forty cases for the scheduled caste, Backward Class and physically challenged persons, respectively, per year in the last preceding three years:

Provided that the gross annual income in the case of candidates belonging to the Scheduled Castes, Backward Class and physically challenged persons, shall be rupees three lakhs per annum.”

4. The petitioner apparently applied and gave the declaration and the details of the cases conducted for the last 3 years in question from 01.06.2016 to 31.05.2019. The details of the 39 cases which are conducted during the period 2006 to 2009 are also appended. Rule 10(bb) of the Rules is *pari materia* to the condition prescribed in the notice/advertisement.

5. In the response filed by the High Court, it has been mentioned that the case of the petitioner was rejected on the ground that he did not have the eligibility qua the court cases. It has been mentioned that he had only appended list showing 39 cases conducted by him from 2006 to 2009 and filled it with the wording “working as Additional Public Prosecutor” and, therefore, the Recruitment Committee (Superior Judicial Services) in its meeting held on 23.10.2019 had rejected his case. It has also been mentioned

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that there was no bar to the petitioner to append the list of 50 cases of each year with his application form but the petitioner has never attached the said list. It is further the case of the respondent that the petitioner has been negligent not to fill the form carefully. A perusal of Annexure-6 attached with the application earlier (Page No.41 of the paper book) would go on to show that it was mentioned that he was working as Additional Public Prosecutor and the list attached (Page Nos.42 to 44 of the paper book) would also go on to show that the details of the earlier cases conducted from the period 2006 to 2009 had been appended rather than cases in which had been appeared as Public Prosecutor. Therefore, it has been rightly contended by counsel for the High Court that the petitioner himself had not brought forth the necessary details and is under a misconception that he is not entitled to be considered while working as an Additional Public Prosecutor.

6. In such circumstances, the petitioner was not eligible as per the terms of the Rules and did not have the requisite number of cases which were 50 per year. Accordingly, we cannot find any fault as such in the action taken by the respondents. Even otherwise, we are informed that the recruitment process for the year 2019 already stands concluded and the requisite appointments have already been made. It has also been averred that the corresponding Rule of The Haryana Superior Judicial Service Rules, 2007 was challenged before the Apex Court in ***Writ Petition (Civil) No.579 of 2015, The Punjab and Haryana High Court Bar Association (Regd.) vs. The Registrar (Recruitment), Punjab***, which was dismissed as withdrawn on 20.04.2018 (Annexure R-1).

7. The petitioner has also filed an application bearing CM-20964-

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CWP-2023 for applying for the post of Additional District and Sessions Judge in pursuance of the notification which has now been issued on 14.11.2023 (Annexure A-1) wherein also, the same Rule and the eligibility condition has been depicted. As per clause 5.1 of the said notification, the last date for applying is 22.12.2023. Thus, if the petitioner for the last three years has appeared in more cases, he is free to apply as the respondents apparently did consider his case even while he was appearing as an Additional Public Prosecutor but at that point of time he did not give the details of the requisite number of cases.

8. Accordingly, we are of the considered opinion that there is no merit in the present writ petition. The rule is salutary in view of the judgment of the Apex Court in ***Deepak Aggarwal vs. Keshav Kaushik and others, (2013) 5 SCC 277*** and the necessary amendment was thereafter made entitling the Public Prosecutors and the Officers working in the Office of the Advocate General to apply.

8. Thus, the petitioner has been apparently under a misconception. The present writ petition accordingly stands dismissed alongwith CM-20964-CWP-2023.

(G.S. SANDHAWALIA)
JUDGE

15.12.2023
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No