



2023:DHC:7634



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of order : 22nd September 2023**
+ **W.P.(C) 3932/2016 & CM APPL. 16627/2016**
AJAY KUMAR KAUSHIK Petitioner
Through: **Mr.K.Venkataraman and Mr.Anuj**
Verma, Advocates

versus

UNIVERSITY OF DELHI & ORS. Respondents
Through: **Ms.Beenashaw N.Soni and Ms.Mansi**
Jain, Advocates for R-2
Mr.Apoorv Kurup, Ms.Kirti
Dadheech and Mr.Shivansh Dwivedi,
Advocates for R-3

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of petitioner seeking the following reliefs:-

“(a) Issue an appropriate writ of certiorari/ any other appropriate writ/order declaring the note at Sl. No.16 inserted in official website (<http://www.ihe.du.com>) of respondent No.2 (advertisement No.____/2016) cancelling the earlier advertisement in employment news 51/40 dated 22-28.3.2014 to the extent of filling up of post of MTS Lab Attendant be declared illegal. Arbitrary, untenable in law and with the



further declaration that the fresh advertisement invited for 9 post of MTS Lab Attendant through the official website (<http://www.ihe.du.com>) of respondent No.2 (Advt. No.____/2016) and by way of Advt. through employment news dated 30.4.2016 [Annexure P-1(Colly)] be declared as illegal, arbitrary, untenable and violative of Article 14 of the Constitution of India, principles of natural justice, equity and fair play;

(b) issue a writ of mandamus or any other appropriate writs directing the respondent No.1/2 to forthwith declare the result of MTS Lab Attendants examination conducted by respondent No. 2 as per the earlier advertisement(Annexure P- 5) circulated through employment news dated 22-28.03.2014(Sl. No.8, Part-3 MTS Laboratory Attendants) and continue the selection process fill up the said post as per the merits of the candidates;

(c) Pass such other and further orders, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case, keeping in view additional facts/grounds mentioned by petitioner.”

2. The facts leading to the filing of the instant petition are recapitulated in brief herein:

a. The petitioner has been working as a Laboratory Attendant since the year 1995 at the respondent No. 2 institution which is under the control of respondent no. 1. The respondent no. 3 is University Grants Commission (hereinafter “UGC”) and the petitioner has made it as a necessary party since its role is to regulate the mode of appointment at the institutions under its control.



- b. The services of the petitioner were extended from time to time and the last extension was granted to the petitioner vide letter dated 4th July 2006 by virtue of which the petitioner's term was extended up to 31st July 2006.
- c. Aggrieved by the irregular treatment of his service, the petitioner had filed a writ petition bearing W.P (C) No. 11954-55/2006, before this Court seeking regularisation of his service as a Laboratory Attendant. The said petition was disposed of vide order dated 2nd August 2013, wherein, a Coordinate bench of this Court had *inter alia* directed that the positions lying vacant at the respondent institution is to be filled as expeditiously as possible and no later than four months from the date of the order. It was also directed by this Court that the petitioner to be granted certain age relaxations.
- d. Pursuant to the above said order, the respondent no. 2 had issued an advertisement for filling up of 9 regular posts of MTS Laboratory Attendant (hereinafter "Lab Attendant") vide advertisement in employment news 51/40 dated 22nd – 28th March 2014. The petitioner applied for the post of Lab Attendant on the basis of said advertisement and accordingly a written examination was conducted on 1st February 2015, in which the petitioner appeared. The written examination was to be followed by an interview round.



- e. Meanwhile, the respondent no. 2 issued a letter dated 30th April 2015, thereby, terminating the services of the petitioner and stating the ground that the process of recruitment for permanent position to the concerned post has been initiated.
- f. In the intervening period of time, the petitioner wrote a letter dated 4th April 2016, to the respondent institution, requesting it to declare the result of the written examination. The petitioner also filed an RTI application dated 21st April 2016, seeking result of the said examination.
- g. Thereafter, the respondent issued another advertisement in the employment news dated 30th April 2016, for filling up of the above said 9 vacant posts of Lab Attendant and in the said advertisement it was mentioned that the earlier advertisement dated 22nd – 28th March 2014, shall now stand cancelled, and it was further stated therein, that those who have already appeared and applied in the earlier advertisement should apply as a fresh candidate.
- h. Being aggrieved by the re-advertisement and cancellation of the process initiated by virtue of the earlier advertisement, the petitioner has approached this Court seeking exercise of its extraordinary writ jurisdiction, thereby, declaring the advertisement in the employment news dated 30th April 2016, as illegal to the extent of post of Lab Attendant and



for declaration of result of the written examination, and also for continuation of the recruitment process, in which the petitioner had appeared.

3. Learned counsel appearing on behalf of the petitioner submitted that the conduct of the respondents have deprived the petitioner and other similarly situated candidates of reasonable and fair selection to the post of MTS Laboratory Attendant on the basis of their merits.
4. It is submitted that non declaration of the result of written examination even after the entire process was conducted after following due procedure is illegal and arbitrary in nature.
5. It is also submitted that the action of the respondents to unilaterally cancel the earlier advertisement dated 22nd – 28th March 2014, is unfair, illegal and based on a biased approach, thereby, violating the principles of natural justice.
6. It is submitted that the petitioner fulfils all the requisite qualifications having rendered more than 19 years of service as a Lab Attendant and is therefore, eligible to be appointed to the concerned post.
7. It is submitted that pursuant to the earlier advertisement, the petitioner appeared in the written examination on 1st February 2015, and was waiting for the result to be declared.
8. It is submitted that even though the entire selection process was conducted after following the due procedure, still the respondent erroneously, cancelled the recruitment process initiated vide the earlier advertisement and re-advertised the same vacant posts again.



9. It is submitted that the entire selection process cannot be cancelled without any substantial reasons and such conduct of the respondent is nothing but illegal, erroneous and against the principles of natural justice.

10. It is submitted that considering the earlier process was at the stage of interview and the respondents having not disclosed any justifiable reasons for cancellation of the earlier recruitment process, and for initiation of a fresh recruitment process, the said conduct of the respondents amounts to violation of the settled legal principles.

11. It is submitted that the respondents, by way of the new advertisement, have invited application for the 9 posts of MTS Lab Attendant. It is submitted that the same number of posts were previously advertised and re-advertising the same is gross misuse of the due process.

12. In the rejoinder filed on 12th September 2016, it is submitted on behalf of the petitioner that the contention of the respondent with regard to the earlier advertisement being invalid since 18 months period has been passed is unsubstantial.

13. It is submitted that the Coordinate Bench of this Court vide order dated 2nd August 2013, had directed the respondent no. 2 to fill the vacant post within 4 months.

14. It is submitted that the respondents did not advertise the post till 22nd – 28th March 2014, i.e., after the lapse of a period of 7 months, and the written examination having being conducted on 1st July 2015. It is also submitted that even after the petitioner had appeared in the written examination, the respondents did not bother to declare the results thereto and further delayed



in conducting the interview process to complete the recruitment process *qua* the earlier advertisement.

15. It is further submitted that such a gross delay in advertising the post and conducting the recruitment process at every step is a fault on the part of the respondents and the petitioner cannot be made to suffer due to the negligence or illegal conduct of the respondents.

16. It is further submitted that as per the RTI reply dated 13th May 2016, it is revealed that the petitioner had scored 144 marks out 250 marks and ranked 5th in the overall merit list. It is submitted in this regard that the fresh recruitment process shall cause prejudice and bias to the petitioner.

17. It is submitted that in view of the foregoing submissions, the instant petition may be allowed and the reliefs prayed for be granted.

18. *Per Contra*, learned counsel appearing on behalf of the respondents vehemently opposed the instant petition and submitted that the same is liable to be dismissed, being devoid of any merits.

19. It is submitted on behalf of respondent no. 2 that the recruitment process *qua* the posts of MTS Lab Attendant pursuant to the earlier advertisement of March 2014, could not be completed since the verified PwD roster was needed to be provided to the University for the nomination of expert for conducting the interview of the candidates selected from the written test.

20. It is submitted that the earlier advertisement was for various posts including Sr. Technical Assistant, Assistant, MTS (Library), MTS (Laboratory) etc. The written test of Sr. Technical Assistant was conducted



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on 30th November 2014 and accordingly a letter dated 24th December 2014, was sent to the University for nomination of expert for finalizing the interview process.

21. It is also submitted that in response to the above said letter, the respondent no. 1 University replied vide letter dated 13th January 2015, stating, that the verified PwD roster needs to be provided to the University first, for the nomination of experts to conduct the interview.

22. It is further submitted that similar letters were also sent to the University, however, same response was received from the respondent No. 1 University. Since the University had informed the respondent no. 2 that PwD roster is required for nomination of experts, the respondent college did not put in a request to the University for appointing an expert for the interview process of Lab Attendant.

23. It is submitted that the ground for not putting in such request for the post of Lab Attendant is that the verification of PwD roster of the respondent no. 2 was in process and was not completed at the relevant time.

24. It is submitted that the UGC approval for direct recruitment to the concerned post was only till March 2015, and due to the pending finalization of the PwD roster, the approval time of the recruitment was lapsing and thus, the respondent no. 2 had requested the UGC for approval to fill the vacant posts at the earliest since the written tests were already conducted.

25. It is submitted that the UGC had informed that separate approval will be given with regard to the post of Lab Attendant since the same was sanctioned under Other Backward Classes (OBC) expansion and the same



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can only be given after a UGC committee visits the laboratory setup. The said approval was granted vide a letter issued in the month of September 2015.

26. It is submitted that after getting the PwD roster verified, the respondent no. 2 wrote a letter dated 19th November 2015, to the University to nominate an expert for the selection committee to be constituted to conduct the interview process.

27. It is further submitted that the University vide letter dated 18th December 2015, informed the respondent no. 2 that as per the 'EC Resolution No. 236 (ii) dated 2nd March 1994', the validity of the advertisement for appointments is 18 months and since the same has lapsed, the respondent University declined the respondent no. 2's request for nomination of an expert.

28. It is submitted that the respondent no. 2 had written another letter dated 17th December 2015, requesting the University to consider the case since the written examination has already been conducted, however, the same was declined by the respondent no. 1 University vide letter dated 8th January 2016, and the University further directed the respondents no. 2 that it may re-advertise the posts to initiate fresh recruitment process.

29. It is submitted that since the respondent no. 1 declined the request of the respondent no. 2, to permit the college to extend the validity of the recruitment, thus, the respondent college had to re-advertise these posts again. Accordingly, new advertisement in the employment news dated 30th April 2016, was issued and fresh recruitment process was initiated, thereby,



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cancelling the earlier recruitment process initiated *qua* the earlier advertisement dated 22nd – 28th March 2014.

30. It is submitted that there is no injustice caused to the petitioner as the petitioner has already been assured that he will be given the age relaxation for the new process of selection as well, in terms of the order passed by the Coordinate Bench of this Court on 2nd August 2013 in W.P (C) no. 11954-55/2006.

31. It is therefore, submitted that in view of the foregoing submissions, the instant petition may be dismissed.

32. Heard the learned counsel appearing on behalf of the parties and perused the record.

33. It is the case of the petitioner that he had applied for the post of Lab Attendant at the respondent no. 2 college pursuant to the advertisement dated 22nd – 28th March 2014. It has been argued on behalf of the petitioner that even though he had appeared in the written examination held on 1st February 2015, the respondent no. 2 college never declared the results and conducted the interview process, instead, it went on to publish another advertisement in the employment news dated 30th April 2016, for filling up of the same 9 vacant posts of Lab Attendant. It has been submitted on behalf of the petitioner that in the new advertisement it was mentioned that the earlier advertisement dated 22nd – 28th March 2014, shall now stand cancelled, and it was further stated therein, that those who have already appeared and applied as per the earlier advertisement should apply as a fresh candidate.



34. The petitioner has approached this Court being aggrieved by the fact that a new advertisement has been published by the respondent, thereby, initiating a fresh recruitment process and the same is illegal and arbitrary on the part of the respondent.

35. The respondent no. 2 college opposed the instant petition and contentions advanced on behalf of the petitioner submitting to the effect that after getting the PwD roster verified, the respondent no. 2 had written a letter dated 19th November 2015, to the University for nominating an expert for the selection committee which would conduct the interview process. The University vide letter dated 18th December 2015, informed the respondent no. 2 that as per 'EC Resolution No. 236 (ii) dated 2nd March 1994', the validity of the advertisement for appointments is of 18 months and since the same has lapsed, hence it declined the respondent no. 2's request for nomination.

36. It has been also submitted that the respondent no. 2 had written another letter dated 17th December 2015, requesting the University to consider the case since the written examination has already been conducted, and only the interview is to be held, however, such request was declined by the respondent no. 1 University vide letter dated 8th January 2016, and the University further directed the respondents no. 2 may re-advertise the posts to initiate fresh recruitment process.

37. It is submitted that since the respondent no. 1 declined the request of the respondent no. 2, to permit the college to extend the validity of the recruitment, thus, the respondent college had to re-advertise these posts



again. Accordingly, new advertisement in the employment news dated 30th April 2016, was issued and fresh recruitment process was initiated.

38. The respondent in its rejoinder has further argued that the lapse of 18 months is a fault on the part of the respondents and the petitioner cannot be made to suffer for such negligence and that as per the RTI reply dated 13th May 2016, the petitioner had scored 144 marks out of 250 marks and ranked 5th in the overall merit list in the written examination held on 1st February 2015. The petitioner in this regard has submitted that the fresh recruitment process shall cause great prejudice and bias to the petitioner, thereby, violating the principles of natural justice.

39. Before analyzing the issues involved in the instant matter, this Court will discuss the settled legal propositions in regard to the exercise of extraordinary writ jurisdiction with respect to the question - whether any of the petitioner's legal right has been violated by the respondents by cancelling the earlier recruitment process and initiating a fresh recruitment process.

40. The law of service jurisprudence is well settled. Over the last few decades, the Hon'ble Supreme Court and various High Courts have laid down the law with regards to the fundamental issue of when the process of an examination can stand vitiated.

41. This Court is of the view that an advertisement inviting applications for appointment to a vacant post at a particular department does not create any legal or fundamental right in favour of the concerned applicant that can be enforced by way of writ jurisdiction. It is prudent to note that until and



unless the petitioner who is seeking issuance of a writ can prove *malafide* on the part of a government official/official in-charge, there cannot be any violation of a legal or fundamental right.

42. Further, with respect to the selection and recruitment process, it is the view of this Court that by merely participating in a recruitment process, or sitting in the examination, or scoring good marks in the merit list, does not confer the concerned participant a legal or fundamental right in his favour for being appointed to the said post which can be enforced by way of issuance of a writ.

43. The law of service jurisprudence prescribing the limitations upon the rights which can be exercised by an applicant pursuant to inclusion of name in the merit list has been discussed by the Hon'ble Supreme Court in detail in the matter of ***Shankarsan Dash v. Union of India***, (1991) 3 SCC 47. The Hon'ble Court held as under:

“7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the



recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in State of Haryana v. Subash Chander Marwaha [(1974) 3 SCC 220 : 1973 SCC (L&S) 488 : (1974) 1 SCR 165] , Neelima Shangla v. State of Haryana [(1986) 4 SCC 268 : 1986 SCC (L&S) 759] , or Jatinder Kumar v. State of Punjab [(1985) 1 SCC 122 : 1985 SCC (L&S) 174 : (1985) 1 SCR 899] .

8. In State of Haryana v. Subash Chander Marwaha [(1974) 3 SCC 220 : 1973 SCC (L&S) 488 : (1974) 1 SCR 165] 15 vacancies of Subordinate Judges were advertised, and out of the selection list only 7, who had secured more than 55 per cent marks, were appointed, although under the relevant rules the eligibility condition required only 45 per cent marks. Since the High Court had recommended earlier, to the Punjab Government that only the candidates securing 55 per cent marks or more should be appointed as Subordinate Judges, the other candidates included in the select list were not appointed. They filed a writ petition before the High Court claiming a right of being appointed on the ground that vacancies existed and they were qualified and were found suitable. The writ application was allowed. While reversing the decision of the High Court, it was observed by this Court that it was open to the government to decide how many appointments should be made and although the High Court had appreciated the position correctly, it had “somehow persuaded itself to spell out a right in the candidates because in fact there were 15 vacancies”. It was expressly ruled that the existence of vacancies does not give a legal right to a selected candidate. Similarly, the claim of some of the candidates selected for appointment, who were petitioners in Jatinder Kumar v. State of Punjab [(1985) 1 SCC 122 : 1985 SCC (L&S) 174 : (1985) 1 SCR 899] , was turned down holding that it was open to the government to decide how many appointments would be made.



The plea of arbitrariness was rejected in view of the facts of the case and it was held that the candidates did not acquire any right merely by applying for selection or even after selection. It is true that the claim of the petitioner in the case of Neelima Shangla v. State of Haryana [(1986) 4 SCC 268 : 1986 SCC (L&S) 759] , was allowed by this Court but, not on the ground that she had acquired any right by her selection and existence of vacancies. The fact was that the matter had been referred to the Public Service Commission which sent to the government only the names of 17 candidates belonging to the general category on the assumption that only 17 posts were to be filled up. The government accordingly made only 17 appointments and stated before the court that they were unable to select and appoint more candidates as the Commission had not recommended any other candidate. In this background it was observed that it is, of course, open to the government not to fill up all the vacancies for a valid reason, but the selection cannot be arbitrarily restricted to a few candidates notwithstanding the number of vacancies and the availability of qualified candidates; and, there must be a conscious application of mind by the government and the High Court before the number of persons selected for appointment is restricted. The fact that it was not for the Public Service Commission to take a decision in this regard was emphasised in this judgment. None of these decisions, therefore, supports the appellant.”

44. The Hon’ble Supreme Court in the matter of ***Union of India v. Tarun K. Singh, (2003) 11 SCC 768***, held that unless and until an individual applicant is selected in the process of selection and gets the letter of appointment for any particular post, he is not entitled with any right to be enforced by way of issuance of a writ.

45. In the matter of ***Sachin Kumar v. Delhi Subordinate Service***



Selection Board, (2021) 4 SCC 631, the Hon'ble Supreme Court held as follows:

“F. The position in law

35. In deciding this batch of SLPs, we need not reinvent the wheel. Over the last five decades, several decisions of this Court have dealt with the fundamental issue of when the process of an examination can stand vitiated. Essentially, the answer to the issue turns upon whether the irregularities in the process have taken place at a systemic level so as to vitiate the sanctity of the process. There are cases which border upon or cross over into the domain of fraud as a result of which the credibility and legitimacy of the process is denuded. This constitutes one end of the spectrum where the authority conducting the examination or convening the selection process comes to the conclusion that as a result of supervening event or circumstances, the process has lost its legitimacy, leaving no option but to cancel it in its entirety. Where a decision along those lines is taken, it does not turn upon a fact-finding exercise into individual acts involving the use of malpractices or unfair means. Where a recourse to unfair means has taken place on a systemic scale, it may be difficult to segregate the tainted from the untainted participants in the process. Large-scale irregularities including those which have the effect of denying equal access to similarly circumstanced candidates are suggestive of a malaise which has eroded the credibility of the process. At the other end of the spectrum are cases where some of the participants in the process who appear at the examination or selection test are guilty of irregularities. In such a case, it may well be possible to segregate persons who are guilty of wrongdoing from others who have adhered to the rules and to exclude the former from the process. In such a case, those who are innocent of wrongdoing should not pay a price for those who are actually found to be involved in irregularities. By segregating the wrongdoers, the selection of



the untainted candidates can be allowed to pass muster by taking the selection process to its logical conclusion. This is not a mere matter of administrative procedure but as a principle of service jurisprudence it finds embodiment in the constitutional duty by which public bodies have to act fairly and reasonably. A fair and reasonable process of selection to posts subject to the norm of equality of opportunity under Article 16(1) is a constitutional requirement. A fair and reasonable process is a fundamental requirement of Article 14 as well. Where the recruitment to public employment stands vitiated as a consequence of systemic fraud or irregularities, the entire process becomes illegitimate. On the other hand, where it is possible to segregate persons who have indulged in malpractices and to penalise them for their wrongdoing, it would be unfair to impose the burden of their wrongdoing on those who are free from taint. To treat the innocent and the wrongdoers equally by subjecting the former to the consequence of the cancellation of the entire process would be contrary to Article 14 because unequals would then be treated equally. The requirement that a public body must act in fair and reasonable terms animates the entire process of selection. The decisions of the recruiting body are hence subject to judicial control subject to the settled principle that the recruiting authority must have a measure of discretion to take decisions in accordance with law which are best suited to preserve the sanctity of the process. Now it is in the backdrop of these principles, that it becomes appropriate to advert to the precedents of this Court which hold the field.”

46. Adverting to the matter in hand, this Court is of the considered view that in accordance to the settled legal principles in relation to the appointment; an appointment can never be claimed as a matter of legal right. The candidates, who appeared in the process of selection, cannot claim the



appointment as a legal or a fundamental right. All appointments to the public posts can only be made by giving due regard to the constitutional schemes and also by following the recruitment rules in force.

47. The provisions enshrined under the Constitution of India mandate equal opportunity in public employment. The concerned competent authority in-charge for the particular public employment must ensure that such an equal opportunity is granted in a free, fair and reasonable manner while conducting the relevant process of selection.

48. This Court, while going through the principles laid down by the Hon'ble Supreme Court in its various decisions has observed that the concept of equal opportunity is to be ensured and the same can be done only by following the recruitment rules in force and by conducting the selection process in a transparent and fair manner. The Courts while adjudicating upon issues with regard to the cancellation of appointments and right to be selected, must keep in mind that the candidates who had participated in the process of selection, have no right to claim appointment, merely because they had participated in the process.

49. Though, this Court is aware that that some innocent candidates may also be affected on account of decision of cancellation of the entire selection process. However, a striking balance is to be adopted while taking a decision to cancel the entire selection process *en masse*. In other words, mere participation in the selection will not confer any right on the candidates. It is the prerogative of the Appointing Authorities to take decision while giving due regard to such circumstances where there are irregularities or the



procedure being followed is in contravention to the established recruitment rules.

50. This Court is of the view that, undoubtedly, it is the right of a citizen to participate in a selection process. Thus, a mere right of participation cannot confer any right to claim appointment and the concerned authority has to assess all the relevant factors while cancelling the process of selection *en masse*. The said authority, being the employer, has to conduct the selection in accordance with the procedures contemplated. Similarly, if the decision is taken to cancel the entire selection process as a whole, then the decision shall be taken based upon certain relevant materials. Though such administrative decisions are the prerogative of the Authority concerned, the reasonings for such decisions are certainly warranted.

51. Now adverting to the present facts and while interpreting the observations of the Hon'ble Supreme Court, this Court is of the view that the petitioner in the present case has no established legal or a fundamental right conferred in his favour.

52. There is a reasonable embargo ascribed to the entitlement of the rights pertaining to public appointments. The appointment to a particular post, in regard to which advertisement has been released and the candidate having been participated in the selection process, cannot be claimed as a matter of right which can be enforced by seeking issuance of a writ.

53. It is pertinent to mention herein that the respondent University had denied the nomination of an expert, for conducting interview/selection process since the process for recruitment initiated vide the advertisement



dated 22nd – 28th March 2014, had been vitiated/expired because the validity of the same is prescribed to be of 18 months as per the ‘EC Resolution No. 236 (ii) dated 2nd March 1994’. The same was informed to the respondent no. 1 College vide letter dated 18th December 2015. Relevant portion of the same has been reproduced as under:

“In this connection, I am directed to inform you that as per EC Resolution No.236 (ii) dated 02.03.1994 the period of validity of advertisement for appointments is 18 months.”

54. The said EC Resolution No. 236 is part of the recruitment rules which the respondents were bound to follow and in the event a part of any such recruitment rules is not being followed or there has been certain developments, by way of which the mandate of such recruitment rules is contravened or violated, then in such circumstances the Appointing Authority is well within its rights to vitiate the entire selection process.

55. This Court is of the said view because of the reason that the Constitutional scheme mandates that the recruitment rules are laid down to ensure equality and to uphold the principles of natural justice. Therefore, in the event, such principles are in jeopardy, it is only prudent to cancel the selection process and to initiate fresh recruitment process.

56. The circumstances, as raised by the petitioner herein that he had already participated in the recruitment process and in the written examination held on 1st February 2015, and that he had secured 5th rank in the merit list and also, that the lapse of 18 months is not his fault, are all unsubstantial. The said circumstances do not confer the petitioner with a



legal right of appointment or any other right that can be enforced by way of issuance of a writ, thereby, directing for cancellation of the new advertisement and directing the respondents to continue with the earlier recruitment process *qua* the post of MTS Laboratory Attendant.

57. The present petitioner, in the absence of such legal rights, has not been able to put forth any such propositions that would warrant the interference of this Court in exercising its extraordinary writ jurisdiction.

58. In view of the above discussions of facts and law, this Court is not inclined to pass any such directions in favour of the petitioner and against the respondents. It is, therefore, held that the act of the respondents by cancelling the earlier process for recruitment initiated vide the advertisement dated 22nd – 28th March 2014, and initiating a fresh recruitment process vide the new advertisement in the employment news dated 30th April 2016, is not arbitrary and illegal.

59. For all the aforesaid reasons, no merit is found in this writ petition and the same is, hereby, held to be misconceived and unnecessary. Accordingly, the instant petition stands dismissed. Pending applications, if any, also stand dismissed.

60. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

SEPTEMBER 22, 2023

Dy/ryp/ds

Click here to check corrigendum, if any