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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7795-2024
Date of Decision: 18.04.2024

ROHIT KUMAR ...Petitioner
Versus
UNION OF INDIA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. K.S. Gogia, Advocate
for the petitioner.

Mr. Vinod Kumar, Advocate for
Mr. Lalit Kumar Attri, Advocate
for the respondents-UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226 of the Constitution of India is seeking setting aside of result/selection process of the Post of Staff Car Driver (Ordinary Grade).
2. The petitioner, pursuant to notification dated 23.07.2022 issued by respondent-department, applied for the Post of Staff Car Driver (Ordinary Grade). He was called for skill test on 21.06.2023. His name did not figure in the final result dated 15.12.2023.
3. Learned counsel for the petitioner contends that respondent-department did not declare the procedure and criteria of the recruitment before conducting the exam/skill test. He further contends that the respondent-department released a revised notification dated 28.12.2022 whereby vacancies were reduced.

4. Per contra, learned counsels for the respondents submit that selection process stands completed. The criteria was duly disclosed in the notification. The petitioner knowing all the parameters prescribed for the selection, participated in the selection process and challenged the selection of respondents after completion of selection process. It is a settled proposition of law that a candidate cannot challenge selection process after participating in the same. There is no allegation of mala fide intention against the Selection Committee.

5. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

6. It is settled proposition of law that a candidate after participating in the selection process cannot challenge criteria laid down in the advertisement or the rules unless and until selection is made contrary to statutory provisions or the advertisement itself.

A two Judge Bench of Apex Court in *Tajvir Singh Sodhi and Others v. State of Jammu and Kashmir and Others* 2023 SCC OnLine SC 344 has held that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. A candidate cannot allege that selection process was unfair or there was some lacuna in the process just because selection process was not palatable to a candidate.

In *Ramesh Chandra Shah v. Anil Joshi*, (2013) 11 SCC 309, after referring to a catena of judgments on the principle of waiver and estoppel, the Supreme Court did not entertain the challenge to the

advertisement for the reason that the same would not be maintainable after participating in the selection process. The relevant extracts of the judgment read as:

“24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents.”

In **Ashok Kumar v. State of Bihar , (2017) 4 SCC 357**, the Apex Court after referring to catena of judgments made an observation that having participated in the selection process without objection, precludes the candidate to challenge the process at a later stage.

In **Union of India v. S. Vinodh Kumar, (2007) 8 SCC 100**, the Apex Court held that it is well settled principle that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same.

The Apex Court in **Sadananda Halo v. Momtaz Ali Sheikh, (2008) 4 SCC 619** has noted that the only exception to the rule of waiver is the existence of mala fide on the part of the Selection Board.

A two Judge Bench of Supreme Court in State of **Uttar Pradesh v. Karunesh Kumar and Others 2022 SCC Online SC 1706** has clearly held that a candidate who has participated in the selection process is estopped and cannot challenge the selection process.

The Apex Court in **Madan Lal v. State of Jammu and Kashmir AIR 1995 SC 1088** has held that if a candidate takes a calculated chance and

participates in the selection process, he cannot challenge the selection process on being found unsuccessful.

7. In the case in hand, the petitioner duly participated in the skill test and interview. He failed to achieve the target. Having been unsuccessful, he is assailing selection process. The case of the petitioner is squarely covered by afore-cited judgments.

8. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be dismissed and accordingly dismissed.

18.04.2024

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(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No