

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:064968-DB



114

LPA-1168-2024 (O & M)
Date of Decision: 09.05.2024

Jitender Kumar

.....Appellant(s)

Versus

State of Haryana and others

....Respondent(s)

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

Present: Mr. Varun Gupta, Advocate,
for the appellant.

Mr. Deepak Balyan, Addl. A.G., Haryana.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

Delay Application

1. Application for condonation of delay of 66 days in filing the appeal is allowed, in view of averments made in the application duly supported by affidavit.
2. Delay condoned.
3. CM stands disposed of.

Main Case

4. Consideration in the present letters patent appeal is to the judgment dated 31.01.2024 passed by the learned Single Judge in CWP-2025-2024 whereby, the learned Single Judge chose not to grant any relief to the petitioner as such.

5. The relief claimed as such was that reasonable opportunity to the

against Advertisement No.5 of 2019 (Annexure P-1) for the post of Clerk. The petitioner could not give his application for coming in the zone of consideration in the revised list being out of station and the advertisement being of the year 2019. No message or e-mail being sent to him was the ground as such for filing the writ petition.

6. The learned Single Judge noticed that 4858 posts of Clerks of Group-C were to be filled in various Departments/Corporations/Boards etc., as per the advertisement. The Commission had revised the result on 17.05.2022 and the candidates had been called for scrutiny of documents. The information had been posted on the website and the candidates were required to get the information from the website only and no individual letters were to be sent. It was held that it was the duty of the petitioner to remain vigilant with regard to his application submitted by regularly visiting the website to know whether he was to appear for scrutiny of documents or not. It was noticed that the ground in the writ petition as such was contrary to the terms and conditions of the advertisement and the petitioner should have been more vigilant to visit the website to know the updates being posted by the respondent-Commission. Having not appeared for the scrutiny of documents, he could not have been called for further participation and the non-appearance as such of the petitioner for scrutiny of documents was due to his own fault and not that of the respondent. The selection having already been finalized and candidates having been recruited, no relief was, thus, granted.

7. Counsel for the appellant has repeated the arguments as such that since the advertisement was of the year 2019, there was no intimation regarding the result being revised on 17.05.2022 and, therefore, the appellant had lost contact and was not aware.

8. We have perused the advertisement in question. Apparently, the

been held time and again by various Full Benches of this Court. Six Full Benches of this Court in *Amardeep Singh Sahota vs. State of Punjab* 1993 (2) PLR 212, *Raj Singh vs. Maharishi Dayanand University* 1994(2) S.C.T. 766, *Sachin Gaur v. Punjabi University* 1996(1) S.C.T. 837, *Rahul Prabhakar v. Punjab Technical University, Jalandhar* 1997(3) S.C.T. 526, *Indu Gupta v. Director of Sports, Punjab* 1999(4) S.C.T. 113 and *Rupinder Singh and others v. The Punjab State Board of Technical Education & Industrial Training, Chandigarh and others* 2001(2) S.C.T. 726 have held to that effect. The relevant observations made in *Rahul Prabhakar's case* (*supra*) read as under:-

"7. A Full Bench of this Court in *Amardeep Singh Sahota v. State of Punjab*, (1993) 4 SLR 673 : 1993(4) SCT 328 (P&H) (FB) had to consider the scope and binding force of the provisions contained in the prospectus. The Bench took the view that the prospectus issued for admission to a course, has the force of law and it was not open to alteration. In *Raj Singh v. Maharshi Dayanand University*, 1994 (4) RSJ 289 : 1994(2) SCT 766 (P&H) (FB) another Full Bench of this Court took the view that a candidate will have to be taken to be bound by the information supplied in the admission form and cannot be allowed to take a stand that suits him at a given time. The Full Bench approved the view expressed in earlier Full Bench that eligibility for admission to a Course has to be seen according to the prospectus issued before the Entrance Examination and that the admission has to be made on the basis of instructions given in the prospectus, having the force of law. Again Full Bench of this Court in *Sachin Gaur v. Punjabi University*, 1996 (1) RSJ 1 : 1996 (1) SCT 837 (P&H) (FB) took the view that there has to be a cut off date provided for admission and the same cannot be changed afterwards. These views expressed by earlier Full Benches have been followed in CWP No. 6756 of 1996 by

the three of us constituting another Full Bench. Thus, it is settled law that the provisions contained in the information brochure for the Common Entrance Test 1997 have the force of law and have to be strictly complied with. No modification can be made by the Court in exercise of powers under Article 226 of the Constitution of India."

9. Sub-Clause 9 and 18 of Note of Clause 2.4 of the advertisement (Annexure P-1) read thus:-

"9. No individual information at any stage shall be sent and hence all candidates should regularly visit the Website & Public Notices in different Newspapers.

18. In case of any guidance/information/clarification regarding the online filling of the application form and Advertisement the candidate can call at helpline No.01725143700 on all working days from 9:00 A.M. To 5:00 P.M."

10. Clause 3.2 reads thus:-

*"3.2. **Scrutiny of Documents:-** Only those document which are uploaded by the candidates shall be considered. If there is any variation in the document uploaded and produced at the time of scrutiny candidature shall be liable to be cancelled. If any application is found without uploading requisite supporting documents and other relevant information, the candidate himself/herself shall be responsible for that and his/her candidature would be liable to be cancelled due to lack of proper or correct documents/information."*

11. Apparently, when the result was notified on 17.05.2022, on the basis of which the petitioner is seeking his claim, the scrutiny of documents was to be done from 21.05.2022 to 06.06.2022 and the candidates were supposed to bring the documents. It was categorically provided that a candidate who does not appear for scrutiny of documents on the scheduled time, date and slot, no

(Annexure P-5) which read thus:-

NOTE:- 1. The Scrutiny of Documents of the above candidates will be held from 21.05.2022 to 06.05.2022. The candidates are advised to report at 08.00 AM at Parade Ground Sector-5, Panchkula. They are also directed to bring all original documents set of self attested copies of all documents, one ID Proof, copy of downloaded applications form and filled scrutiny form.

2. In case a candidate does not appear for Scrutiny of Documents on Scheduled date, time and slot, no further opportunity will be given thereafter.

3. Candidates can download their admit card for scrutiny of documents from 19.05.2022. Candidates shall report at the date and time mentioned in the admit card.

4. All above candidates shall fill their department preference online using their login Id and password from 21.05.2022 to 27.05.2022.

5. All Photostat copy of documents to be submitted during physical scrutiny of documents shall be clear and legible. Issuing date, issuing authority and complete header/footer should be clearly visible. Documents without issuing date and issuing authority will be out rightly rejected and candidate will himself/herself be responsibility for this lapse.

6. Detailed Schedule for of scrutiny is available on the website of Commission.

7. While every care has been taken in preparing and uploading the result, possibility of inadvertent/technical errors cannot be ruled out. The Commission reserves the right to rectify the same later on.

8. The result is also available on the website of HSSC i.e. www.hssc.gov.

Sd/-

Secretary

Haryana Staff Selection Commission

Dated:- 17.05.2022”

methodology as such. A perusal of the said clauses would show that the recruitment was to be completed within a restricted time frame and the candidates had to submit all documents and the responsibility of submission of documents lay with the candidates. The details of the documents were also mentioned. Clause Nos.6, 7, 8, 14, 19 and 20 of the abovesaid notice read thus:-

“6. Thumb and facial biometric will also be carried out during scrutiny of documents of all candidates and in case of any mismatch their candidature will be cancelled and candidates will be debarred from future recruitments.

7. Since the recruitment is to be completed in restricted time frame as per court order, so no chance to any absentee candidates will be given for scrutiny of documents. Candidates shall be present on the date and time mentioned in the admit card. Candidate's documents will not be verified if he/she does not appear on the scheduled date, slot and time. Even if he appears on any other date when scrutiny of other candidates is scheduled, he will not be given any opportunity and no representation in this regard will be entertained by commission and no separate information will be sent to any candidate.

8. A candidate has to submit all his documents at one time and no opportunity to change or add any document will be given after his scheduled date and time under any circumstance.

14. Documents shall be arranged in following sequence

- i) Scrutiny Form*
- ii) Online application form*
- iii) Matriculation certificate*
- iv) 12th Certificate*
- v) Graduation or any higher qualification*
- vi) Domicile*
- vii) Caste certificate*
- viii) DESM eligibility certificate/battle casualty certificate/ESM*

NOC and discharge book

ix) Socio economic

a) undertaking of No Job

b) fatherless/ widow

c) De-notified of Nomadic Tribble

d) Experience

x) Aadhaar or any ID proof

xi) Any other document

19. Candidates shall bring the filled scrutiny form during scrutiny of documents which is enclosed herewith. It should be filled by candidate in his/her own handwriting.

20. Claim under socio-economic criteria, if any, shall be admissible to those candidates only who have claimed and uploaded the relevant documents at the time filing online applications.”

13. The whole purpose as such of the Schedule is, thus, is to ensure that the recruitment process is completed at the earliest. The appellant might have been in the zone of consideration but he chose not to appear before the Commission at that point of time. Apparently, he filed CWP-15365-2022, Jitender Kumar vs. State of Haryana and another wherein, the same relief as such was claimed which had already been sought to consider his case. The said writ was never pressed and taken to the logical end but was withdrawn on 12.10.2023 (Annexure P-7) with liberty to approach the respondents. The same reads thus:-

“After arguing for some time, learned counsel for the petitioner submits that the petitioner (sic. petitioner) intends to approach the respondents for the redressal of his grievance (sic. grievance) hence, the present petition may kindly (sic. kindly) be disposed of having been not pressed any further with the liberty as prayed for.

Ordered accordingly.”

14. It is thereafter only a representation dated 28.11.2023 (Annexure P-8)

was filed to the Commission for redressal as such and then the present writ
Shivani Gupta
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petition is filed. The reasons given by the learned Single Judge do not suffer from any infirmity with would warrant interference. The co-ordinate Bench in *LPA-285-2023, Gaurav Sangwan vs. State of Haryana and others* decided on 16.03.2023 has stressed upon that for every vacant post advertised for recruitment, there is no dearth of eligible and qualified candidates vying for it and, therefore, the selection involves intense competition. It has further been observed that a candidate who has not been vigilant and has squandered the opportunity with his casual attitude cannot seek the indulgence of a writ Court merely on the plea of his merit to deny other candidates. Making such an exception would not only endlessly stretch the recruitment process, but also put its sanctity under a cloud.

15. Thus, for additional reason that he had earlier preferred a writ petition and having chosen not to press for it, we are of the considered opinion that even the second writ petition was not maintainable on the same cause of action. Accordingly, we do not find any plausible reason as such to entertain the present appeal and the same is hereby dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

09.05.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No