



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1327-2024 (O&M)
Date of Decision:- 28.05.2024

Savita
...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. Chandan Singh, Advocate,
for the appellant.

Mr. Deepak Balyan, Additional Advocate General, Haryana.
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G.S. SANDHAWALIA, ACTING CHIEF JUSTICE (ORAL)

1. The consideration in the present appeal is to the order dated 30.04.2024 passed by the learned Single Judge dismissing CWP-19642-2023, wherein challenge was made to the order dated 12.07.2023 (Annexure P-17), whereby the appellant-writ petitioner's services from the post of Employability Skill Instructor against Advertisement No. 12/2019 in Category No. 7 were dispensed with on the ground that she had mislead the Haryana Staff Selection Commission (in short the Commission) by claiming the benefit of 05 marks for no job in the family under Socio-Economic criteria.
2. Since the appellant-writ petitioner had approached this Court in CWP-4502-2023 and direction had been issued by another learned Single Judge vide order dated 20.03.2023 to decide her representation, the order dated 12.07.2023 (Annexure P-17) was passed. It was noticed in the impugned order that the Committee constituted by the Department as such had given a report that the candidate had been awarded 05 marks for the purpose of no job



in the family and the Department had no role as her candidature had been cancelled by the Commission as such.

3. The learned Single Judge keeping in view the factual aspect noticed that a public notice dated 22.12.2021 had been issued, wherein an opportunity had been given to all candidates to withdraw their claim/undertaking for socio-economic criteria marks under the head where the benefit was to be granted on account of the family not being an employee in any Department / Board / Corporation / Company / Statutory Body/ Commission / Authority of Government of Haryana or any other State Government or Government of India. The said claim having not been withdrawn as filled out in the application form as such and the result of the selection having been declared on 20.04.2022, the learned Single Judge was of the opinion that after the marks had been made known to the candidates and the appellant-writ petitioner knew that she would remain in the zone of selection, she had taken up the issue of misleading regarding the definition of family on the ground that she was married as such and, therefore, had given reference to the context regarding the wrong affidavit submitted which only would pertain to her in-laws. Accordingly, the learned Single Judge came to the conclusion that there was no illegality or irregularity in the impugned action as her candidature had been cancelled strictly in accordance with the stipulation in the advertisement which did not call for any interference.

4. Counsel for the appellant has tried to convince us on the same line of argument that being a married woman she had misread the instructions as such to the extent she filled out the form that none amongst her father, spouse, brother, sisters, sons and daughters as such was in government



employment to claim the benefit of socio-economic criteria. A perusal of the paper book would go on to show that after the death of her father, the appellant-writ petitioner's mother was given appointment as Clerk in the Ordnance Depot, Shakurbasti, Delhi on compassionate basis. In spite of that she submitted an affidavit dated 25.07.2022 (Annexure P-10), wherein she deposed that none amongst her father, mother, spouse was a regular employee. She further deposed in the affidavit that the status of employment of the women candidates' family was to be considered with regard to her family of birth not in-laws. She further deposed that the marks were given on the basis of information supplied by her and if at any stage it was found that the information had been provided wrongly her services could be terminated. The relevant part of the affidavit as such given reads as under:-

"I, Savita, D/o Ram Kumar Sidhu aged 31 years, R/o District Charkhi Dadri, do hereby submit the following information for claiming marks under the Socio-Economic criteria namely:-

- 1. That I am to apply for the post of Employability Skill Instructor in HSSC against Category No. 7, Advt. No. 12/2009, dated 20.07.2019.*
- 2. That my Aadhaar No./Pan Card No./Voter ID No. (if any) is 830070911396.*
- 3. That neither the applicant nor any person among the applicant's family viz. father, mother, spouse, brothers and sons is, was or has been a regular employee in any Department / Board / Corporation / Company / Statutory Body / Commission / Authority of Government of Haryana or any other State Government or Government of India.*
- 4. That the status of employment of the women's candidates family shall be considered with regard to her family of birth not in laws.*



5. That any person among in candidate's family in Government job having separate family ID/Ration Card will not be entitled to be awarded marks under Socio Economic Criteria having no Government job.

6. That as no person as mentioned above had been in employment, I may be allotted marks under the Socio Economic criteria.

7. That I fully understand that the marks are given on the basis of information supplied by me and if any stage is found that the information has been provided wrongly then not only my services can be terminated on the ground of supply of wrong information even if without these marks also my name would have figured within the select list/recommendation list. I also understand that criminal action can be taken against me for providing wrong/false information.

8. That the deponent shall not take advantage of the certificate(s) issued by the competent Authority if in meantime any other eligible person in my family obtains the benefits thereof in the recruitment.

9. Verified that the contents of all the above paras are true to my knowledge and belief and nothing has been considered."

5. Apparently, it was after the result which was declared on 20.04.2022 that the affidavit was sought to be clarified to the extent that claim for 05 marks was on account of the fact that none from her in-laws side was in the government job and, therefore, she did not want to claim any marks for that. Another argument, thus, was raised that she was only 11 years old when her father had died on 18.09.1999 and, therefore, she had wrongly filled out the application form and could have claimed the benefit as such and was entitled for the benefit of marks under that head. The said affidavit dated 04.08.2022 (Annexure P-11) reads as under:-

"I Savita D/o Ramkumar and wife of Sh. Sudhir Sakna is resident of Nimlee, Tehsil and District Charkhi Dadri and declare as under in my affidavit:-



1. That I am the resident of above mentioned address.
2. That I had applied an online of HSSC against advertisement No. 12/2019, Cat. No. 7, Post Employability Skill Instructor, the roll no of which is 1219070168, in which despite my mother having a government job, I had mistakenly registered 'No' in the option because I could not understand and I had considered my in-laws side only. Due to which I got 5 marks under Socio-economic Criteria and I have been selected.
3. That my father died on 18.09.1999, whose age was 36 years at that time and I was 11 years old, of whom I am the second child, but by mistake NO was entered in that option also.
4. That my selection in H.S.S.C. Adv. No. 12/2019 Cat. No. 07 Post Employability has happened on the post of Skill Instructor and now I do not want to claim any number under Socio-economic Criteria, so my form should be considered.

Identified by:
S.S. Rana Advocate

Sd/-
Deponent

I solemnly declare that my above statement is true and correct.

Dated: 04.08.2022

Sd/-
Deponent"

6. It is not disputed that as per the terms of the advertisement, if any candidate submits false or incorrect information as such, his/her candidature will be cancelled and he/she is also liable to be criminally prosecuted. The relevant clause reads as under:-

"16. If on verification at any stage, it is found that any candidate does not fulfill any of the eligibility condition or it is found that the information furnished is false or incorrect, his/her candidature will be cancelled and he/she will also be liable to be criminally prosecuted. This is irrespective of whether the candidate was benefitted in his/her application from that particular eligibility condition or not."



7. It is in such circumstances, the respondents as such dispensed with her services even though they had given a public notice dated 22.12.2021 that gave the candidates option to withdraw the claim if made, but the same was not capitalized by the appellant. It has been held by various Full Benches of this Court that the advertisement/prospectus has got the force of law. The proposition of law that the advertisement has a binding force and would govern the candidate(s) stands established beyond a cavil of doubt. 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."

8. The appellant-writ petitioner having accepted the said conditions and applied as per the advertisement and given false information and an attempt to wriggle out at a later stage by taking the excuse that the affidavit was in context to the in-laws she being married, the defence has been raised. We are of the considered opinion that the affidavit itself is self-speaking to the extent it talks about the mother and father. The fact that her mother had obtained compassionate appointment on account of the death of her father was an aspect that the appellant-writ petitioner was well aware of. Having wrongly filled out the form, she has to face the consequences.

9. The judgement of the Apex Court in ***Avtar Singh Vs Union of India and others*** 2016(8) SCC 471 which pertains to the Police Constables giving incorrect information would be directly applicable in the facts and circumstances. Once there is concealment as such, the argument that it is an inadvertent mistake on the part of the appellant-writ petitioner by placing reliance upon the judgements of the Apex Court in ***Commissioner of Police, Delhi Vs Dhaval Singh*** 1999(1) SCC 246 and ***Commissioner of Police and others Vs Sandeep Kumar*** 2011(4) SCC 644 would be of no help as both the judgements have been discussed in ***Avtar Singh's*** case (supra).

The Apex Court in ***Bihar Staff Selection Commission, Patna Vs Binod Kumar and others*** 2013(2) SLT 672 held that there was an ambiguity



and vagueness in the provisions of clause 11 of the advertisement and, therefore, the order of the High Court was upheld by noticing the fact that the candidate was residing at Bokaro, within the State of Jharkhand, but he was the permanent resident of District Darbhanga within the State of Bihar and, thus, the said judgement would not be applicable.

A Coordinate Bench of this Court, while referring to string of judgements of the Apex Court, dismissed LPA-72-2022 titled *Dinesh Kumar Vs State of Haryana and others* vide order dated 02.02.2022 by holding that there was concealment of material facts with deliberate intent of obtaining appointment by the appellant. Even SLP(C) No(s). 16948/2022 preferred against the said order was also dismissed by the Apex Court on 01.11.2022.

10. In such circumstances, we do not find any plausible reason as such to interfere in the order of the learned Single Judge which is based on the first principle as such that once the candidate has concealed the fact as such, the Writ Court would not step in to help for his/her benefit.

11. The appeal being meritless, accordingly, stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

28.05.2024
Amodh Sharma

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