



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1136

CWP-11827-2015 (O&M)
Date of decision: 25.10.2024

Naveen Kumar Nain

....Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : None for the petitioner

Mr. Dushyant Saharan, AAG Haryana

Mr. Samrat Malik, Advocate for respondent Nos.5 to 7 and 9 to 13

AMAN CHAUDHARY, J. (ORAL)

1. Challenge is to the merit list dated 23.12.2013 for selection to the 10 posts of Junior Engineer (Civil) pursuant to Advertisement dated 14.08.2010.
2. As is apparent from the averments made in the petition, the petitioner had obtained more marks for his academic qualifications as per the criteria, as compared to the 5 out of the 7 candidates selected under the General category, however he remained unsuccessful, only due to lesser marks having been awarded in the interview/viva-voce, being 10 out of a total of 25, while the others had between 17 to 22.
3. With regard to the above, a beneficial reference may be made to the judgment of this Court in **Varun Vir vs. Uttri Haryana Bijli Vitran Nigam Limited and Others¹**, wherein the criteria as adopted in the present case

¹ CWP-10141-2008, decided on 04.03.2010



involving the same post, though in a previous advertisement had been upheld and it was held that, “The Hon'ble Supreme Court was setting down the law in **Kiran Gupta's** case (supra) after consideration of all the decisions as to how in the cases of service to which recruitment had necessarily to be made from the persons of mature personality, interview could be the best method of assessment subject to basic and essential academic qualification and professional requirements being satisfied. In **Lila Dhar Vs.State of Rajasthan and others** 1981 (4) SCC 159 cited in **Kiran Gupta's** case (supra), the Hon'ble Supreme Court was actually dealing with the case where the ratio of the marks for written test to interview was 75: 25. The issue of how much marks would be appropriate to be assigned for interview shall be seen to be understood in the particular factual context and ability of the interview committee to draft the best talent. It shall not be possible to reject the selection criteria as arbitrary and bad by the only fact that 25 marks had been assigned out of 75 marks for interview. The challenge to the selection ought to fail and the writ petition deserves to be dismissed in the light of decisions cited above, and is accordingly dismissed.” Further, in **Mukesh Bala vs State of Haryana and others**², to which no challenge was made, wherein also this Court had, as regards the petitioner therein who had more academic marks than most of the candidates, observed thus:

“A perusal of the marks assigned to the candidates, as has been mentioned in Annexure P-12, to some extent reflects what has been asserted by the counsel for the petitioner but that cannot be accepted as a principle for coming to a conclusion that there were certain mala-fides in making the selection of the private respondents. Merely because some of the candidates, who had secured higher marks in the academic head of the criteria, have been given lesser marks in the

² CWP-15937-2008, decided on 05.03.2014



interview would not ipso-facto lead to a conclusion that this exercise has been done intentionally especially when none of the Members of the Selection Committee has been impleaded as party respondent nor are specific allegations in this regard reflected in the petition or pleaded. On whose behest and by whom the said manipulation as has been alleged to have been committed by the Interview Committee cannot be ascertained merely on the basis of the marks assigned at the time of interview. The selection thus, cannot be said to be vitiated on this ground.”

4. It is a well-settled law that a candidate, without having initially made any challenge and thereby rubbed shoulders with others in a selection, cannot, on account of the outcome not being to his liking, do so by asserting that there was some flaw in the process or unfairness in the interview, which were also the observations of Hon’ble the Supreme Court in **Tajvir Singh Sodhi vs. State (UT of J&K)**³.

5. Insofar as the power of this Court to sit over a decision of the Selection Committee is concerned, Hon’ble the Supreme Court in **Dalpat Abasaheb Solunke vs. Dr. B.S. Mahajan**⁴, had observed thus:

“It will thus appear that apart from the fact that the High Court has rolled the cases of the two appointees in one, though their appointments are not assailable on the same grounds, the Court has also found it necessary to sit in appeal over the decision of the Selection Committee and to embark upon deciding the relative merits of the candidates. It is needless to emphasise that it is not the function of the Court to hear appeals over the decisions of the Selection Committees and to scrutinize the relative merits of the candidate. Whether a candidate is fit for a particular post or not has to be decided by the duly constituted Selection Committee which has the expertise on the subject. The Court has no such expertise. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the Committee or its procedure vitiating the selection, or proved mala fides affecting

³ 2023 SCC OnLine SC 344

⁴ 1990 (1) SCC 305



the selection etc. It is not disputed that in the present case the University had constituted the Committee in due compliance with the relevant statutes. The Committee consisted of experts and it selected the candidates after going through all the relevant material before it. In sitting in appeal over the selection so made and in setting it aside on the ground of the so called comparative merits of the candidates as assessed by the Court, the High Court went wrong and exceeded its jurisdiction.”

6. It is on the subjective satisfaction of the Committee that it grants marks in an interview, based on how well one fared in the said process, irrespective of the merit obtained in academic qualification. Neither the marks assigned for interview in the criteria prescribed have been alleged to be beyond the permissible percentage nor is there any bias specifically asserted against the selection Committee. It would be an uphill task to culminate the recruitment process, if the plea of every unsuccessful candidate was to be accepted.
7. On a conspectus evaluation of the above, the present petition being devoid of merit, is hereby dismissed.

(AMAN CHAUDHARY)
JUDGE

25.10.2024
M.Kamra

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