

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

108

2024:PHHC:029451-DB
LPA-1147-2023 (O & M)
Date of Decision: 01.03.2024

Gurwinder Singh and others

.....Appellant(s)

Versus

State of Punjab and others

.....Respondent(s)

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

Present: Mr. J.S. Dhaliwal, Advocate, for the appellants.

Mr. Saurav Khurana, Addl. A.G., Punjab.

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

CM-232-LPA-2024

1. Application for placing on record the judgment dated 26.02.2014 passed by Special Judge, Mohali as Annexure A-1 is allowed, subject to all just exceptions.
2. The same is taken on record.
3. CM stands disposed of.

LPA-1147-2023

4. Consideration in the present letters patent appeal is to the judgment dated 12.07.2023 passed by the learned Single Judge wherein, CWP-5674-2000, Rupinder Pal and others vs. State of Punjab and others was dismissed alongwith 5 other connected matters by repelling the challenge which had been raised to the selection done for the 370 posts of Multipurpose Health Workers (Male).
5. The learned Single Judge came to the conclusion that the writ-petitioners having participated in the interview and having not been able to gain the grade, could not as such file the writ petition and challenge the same. Finding was recorded that the criteria adopted was uniformly applied to all candidates and cannot be said to be arbitrary. The judicial review regarding the allotting of marks

unjustified. The issue of allotting more marks to the candidates having first division in comparison to the third division and similarly not allotting more marks to the candidates securing more than 75% marks in relation to candidates having secured 3rd division was not liable to be gone into by the Court. Merely because the writ petitioners had secured higher marks in the diploma for Multipurpose Health Workers but had been allotted less marks in the interview was held not to be sufficient reason for the Court to interfere in the selection process. Further, it was observed that only because the issue was raised before the Lok Pal as such and it had issued directions could not be sufficient reason as such to interfere.

6. Counsel for the appellants has also placed on record the criminal proceedings which had been launched against the Members of the Selection Committee wherein, the son of the Chairman of the Punjab Subordinate Service Selection Board alongwith others had been prosecuted unsuccessfully and eventually led to the acquittal by the Special Judge on 26.02.2014 (Annexure A-1), which cannot be a ground as such to set aside the selection which was made in which the appellants had also participated but were unsuccessful.

7. The law is settled regarding this aspect that having taken part in the selection process, the candidates cannot be permitted to turn around and then question the selection process. Reference can be made to the judgments of the Apex Court in ***Madan Lal and others vs. State of J&K and others, (1995) 3 SCC 486; K.A. Nagamani Vs. Indian Airlines and others, (2009) 5 SCC 515; Manish Kumar Shahi vs. State of Bihar and others, (2010) 12 SCC 576; Madras Institute of Development Studies and another Vs. K. Sivasubramaniyan and others, (2016) 1 SCC 454 and Ashok Kumar and another vs. State of Bihar and others, (2017) 4 SCC 357.***

8. Since the criteria had been put in public domain and the writ petitioners had been well aware of it and having taken part in it with open eyes,

now they cannot turn around and challenge the same. In ***Rajya Sabha Secretariat and others vs. Subhash Baloda and others, (2013) 5 SCC 169***, the Apex Court came to the conclusion that it was not for the Court to substitute what it thinks to be appropriate and also that once the same procedure was being applied to all candidates by the specialized agency as such, candidates could not complain of any prejudice. Relevant portion of the said judgment reads as under:-

“28. Having noted this factual and legal scenario, in our view there was nothing wrong in the method applied by the appellants in the Selection of the Security Assistants Grade-II. There was no discrimination whatsoever among the candidates called for the interview, nor any departure from the advertised requirements. One can always say that some other method would have been a better method, but it is not the job of the Court to substitute what it thinks to be appropriate for that which the selecting authority has decided as desirable. While taking care of the rights of the candidates, the Court cannot lose sight of the requirements specified by the selecting authority. What the High Court has proposed in the impugned orders amounts to re-writing the rules for selection, which was clearly impermissible while exercising the power of judicial review.”

9. The defence of the respondents in the writ petition was that a criteria had been formed for selection, which was appended as Annexure R-1 alongwith the written statement, which shows that various marks were to be given for matriculation and the diploma. Out of 100 marks, 75 marks were to be allotted for educational qualifications and experience and 25 marks were to be allotted for interview. Apparently, the interviews had been conducted from 13.09.1999 to 17.09.1999 and then from 20.09.1999 to 24.09.1999 and on 27.09.1999. Result had been declared thereafter (Annexure P-1 in the writ petition) which was subject

matter of challenge. The case as such was that the interview was only an eye wash and the writ petitioners were hopeful that they will not be selected in spite of the fact that they were having good marks in matriculation and diploma. The stand in the written statement was that there were only 903 candidates and the Board did not feel any necessity to conduct a screening test and while calling the candidates for interview, they were asked to bring their qualification certificates, experience, participation in sports and extra curricular activities NSS and NCC etc. The criteria had also been placed on the notice board well before the start of the interview and the candidates had given in writing that they had read the criteria and had produced all the documents and certificates in their possession. Resultantly, the selection has been made after interviewing the candidates.

10. It is in such circumstances, the learned Single Judge as such has upheld the selection process while taking into consideration that in the advertisement issued on 16.05.1998, under Clause 15, it was mentioned that the decision of the Board regarding the criteria would be final and the candidates would be bound by the decision of the Board. In such circumstances, the argument raised that having higher marks in diploma and having not succeeded would not be as such a ground to hold that the selection process was biased or illegal in any manner. The learned Single Judge has, thus, acted within the parameters fixed for judicial review and has not exceeded the same.

11. Resultantly, we do not find any ground to interfere in the well reasoned judgment passed by the learned Single Judge and dismiss the present appeal.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

01.03.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No