



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-35158-2024

Date of decision: 22.01.2025

OM PARKASH

.....Petitioner

VERSUS

THE HARYANA STAFF SELECTION COMMISSION

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Raja Sharma, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present writ petition is to the selection list dated 30.01.2012 (Annexure P-17) as the petitioner failed to find a place in the final merit list and with a further prayer to direct the respondent-Commission to select and appoint the petitioner on the post of 'Clerk' by conducting a fresh interview.

2. Learned Counsel appearing on behalf of the petitioner contends that the Haryana Staff Selection Commission had advertised 2734 posts of Clerks (Group-C) on 07.02.2008 in category No.1 for various Departments/Boards/Corporations of Haryana. Of the aforesaid 2734 posts, 1067 posts were for the General category while 540 posts were for SC category; 371 posts for BCA category; 227 posts for BCB category; 205 posts for ESM General category, 58 posts for ESM SC category; 75 posts for ESM BCA, 93 posts for ECM BCB category, 24 posts for OSP General



category; 26 posts for OSP SC category; 25 posts for OSP BCA category and 23 posts for OSP BCB category vide advertisement No. 1 of 2008. The essential qualification prescribed for these posts was as under:-

- i) *Matric/Matric First Division/Higher Secondary/10+2/10+2 (Vocational)/Graduation or its equivalent (for ex-servicemen matric only)*
- ii) *Hindi/Sanskrit upto matric standard.*

3. The petitioner applied for the said post being eligible. He contends that the Commission issued a Corrigendum on 22.12.2009 by which it fixed the minimum cut-off, category wise and published the formula with regard to evaluation of the cut-off point, on the basis of educational qualification. The Commission advised the candidates to calculate the cut-off points by multiplying their percentage of Matriculation only with 0.58 and in case they possessed the qualification of 10+2 or Graduation, then to add point 1 (for 10+2) and point 2 (for graduation and above) respectively.

4. On 07.05.2010, the Haryana Staff Selection Commission issued a interview letter to the petitioner conveying that the date of interview was 06.07.2010 and his roll number was 035128 but the interview on the said date was not held and it was informed to have been postponed.

5. He contends that prior to issuance of the aforesaid advertisement, the respondent-Commission had earlier advertised 450 posts of 'Clerks' vide advertisement No. 11 of 2004. The petitioner had also applied under the same for which Roll No. 251961 had been issued to him.



Written examination for the same was held on 06.02.2005 but no selection was finalized by the Commission. The petitioner thus sought information under the Right to Information Act, 2005 vide letter dated 02.06.2010 informing that even though earlier the interview was cancelled due to some reasons, however, he did not receive any further letter for the said post, hence, seeking information about the status of interview. In response to the aforesaid letter submitted under the RTI Act, 2005, the petitioner received a phone call on 24.06.2010 whereby he was informed that he could collect his roll number on the next day. The petitioner expressed his helplessness to collect the same and made a request to send the letter by post. The petitioner again sought information under the RTI Act on 26.06.2010 by demanding the same information as asked for vide letter dated 02.06.2010. He was thereafter called for interview on 07.09.2010 against advertisement No. 1 of 2008 but his interview was not held on that day. Another application was submitted by him on 10.09.2010 under the Right to Information Act, 2005 seeking reasons for not taking his interview. The petitioner was advised to attend the office of the respondents. He contends that despite the petitioner seeking information again and again, the same was not conveyed. He submits that finally the petitioner received a letter dated 25.10.2010 from the State Public Information Officer stating that the petitioner's interview for the post of Clerks against advertisement No. 1/2008 had already been held on 19.10.2010 but as per the communication dated 07.10.2010, it was only an advisory to the petitioner to attend the office of the respondent-Commission with all relevant documents so as to put-forth his claim and the same cannot be termed as a communication to call him for an interview. He submits that



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the respondent-Commission declared the result on 30.01.2012 for the post of 'Clerk' against advertisement No. 1 of 2008 but the name of the petitioner was not reflected therein. The declaration of the said result was on the basis of the interview that were claimed to have already been conducted. He vehemently contends that the petitioner submitted subsequent representations but as no response was received, hence, he preferred CWP-15236 of 2012 titled as ***"Om Parkash versus State of Haryana and others"*** which was disposed of by this Court with liberty to the petitioner to file a fresh petition with better particulars after receiving information under the RTI Act. The petitioner waited for a considerable period to receive the information and filed CWP-12840 of 2022 titled as ***"Om Parkash versus State Information Commission Haryana and others"*** for seeking the information that had been sought for. The said writ petition was disposed of as having been rendered infructuous by this Court whereupon the petitioner had filed the instant writ petition afresh.

6. Learned Counsel contends that the minimum cut-off marks was 63.04 whereas the petitioner had secured 38.64 marks out of 60 for education qualification and 11 marks out of 30 marks in the interview. Hence, his total was 49.64 marks. It is argued that the factum of the interview being conducted by the respondent-Commission on 19.10.2010 is totally false and misleading to dislodge the petitioner from claiming selection to the post of Clerk as no interview of the petitioner was ever conducted by the Commission on 19.10.2010. The assigning of 11 marks to the petitioner is, thus, a tampering of the record. He contends that the petitioner submitted a representation on 03.01.2024 requesting for a fresh



interview as the marks obtained by the petitioner on the basis of educational qualification and experience are to be much higher than that of the selected candidates. The present writ petition is, thereafter, being filed in the year 2024 for seeking setting aside of the select list.

7. Learned State Counsel appearing on behalf of the respondents contends that the cut-off merit was at 63.04 marks while the waiting cut-off was 59.07 marks. The overall merit of the petitioner was 49.64 marks which included 38.64 marks for the education qualification and 11 marks towards the interview.

8. It is also noticed by this Court that the present writ petition has been filed on 29.11.2024 when the age of the petitioner is 56 years. It has also not been controverted by the Counsel for the petitioner that the initial writ petition was filed by him in the year 2012 i.e. CWP-15236 of 2012 which was withdrawn on 09.08.2012 with liberty to file a fresh petition after receiving information under the RTI Act. The instant writ petition has now been filed after a gap of more than 12 years challenging the declaration of a result dated 30.01.2012. The petitioner attempts to justify the delay on the ground that he had been seeking information under the RTI Act, however, this Court feels that a delay of 12 years in approaching this Court again, notwithstanding that the provisions of the RTI Act specify the time frame within which he could have sought information and preferred appeal if information is not supplied, yet, the petitioner filed a writ petition against failure to supply information under the Right to Information Act only in the year 2022. I find that there is an inordinate delay that has occurred in



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approaching this Court. The position of selected candidates has already been settled and they have been working against different posts for more than a decade. Further, the petitioner has already attained the age of 56 years and by efflux of time, unsettling the issues that have already attained finality would amount to re-opening the entire process. It is well settled position in law that a person cannot choose to be a fence sitter and approach the Court of law espousing his grievance at his convenience. A substantive right may be lost on account of delay and laches itself. The cause has thus currently become stale and people, who have already settled in their respective posts, cannot be forced to undergo the entire rigours all over again. Moreover, it is highly suspect that the record pertaining to the entry book, which is more than 15 years old as on today, would even have been kept intact by the Staff Selection Commission. Thus, the rival claim made by the petitioner that he had never appeared for the interview and has wrongly been assigned 11 marks as against the stance of the Staff Selection Commission would thus become a serious disputed question of fact which may not be gone into by this Court at this juncture. Considering it from either of the perspectives, no case would be made out to reopen the selection.

9. Finding no merit, the present writ petition is ***dismissed in limine.***

JANUARY 22, 2025
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No