

Before Tejinder Singh Dhindsa, J.

ARCHANA NAGAR MISRA—Petitioner

versus

H.P.S.C.AND OTHERS—Respondents

CWP No.12574 of 2011

July 2, 2013

Constitution of India, 1950 - Art. 226 - Petitioner, an unsuccessful candidate for selection to the post of Principal/Deputy Director Govt. Colleges (H.E.S-1), had challenged the action of the respondents inasmuch as her published works were not taken into account - The petitioner had fallen short by one mark, and her

assertion that if she had got credit for her publications she would have been selected, repelled by High Court - Held, that the question whether the publications were of a standard meriting credit/marks was best left to experts - Courts not equipped to delve into such an inquiry- Writ Petition dismissed.

Held, that in view of the settled legal position, this Court would have a very limited role particularly when no malafides have been alleged against the Members of the Selection Committee/Board. As a matter of principle, this Court would not make an endeavour to sit in appeal over the decision of a duly constituted Selection Committee/Board. The Court must realize its constraints and limitations in such matters. Even though, the petitioner may have fell short by only one mark, yet, in an overview of the matter no basis for interference is made out. The question as regards the published material of the petitioner being of sufficient high standard i.e. having been published in journals of national and international repute would be best left to the judgment of the expert concerned.

(Para 11)

A.K. Takkar, Advocate, *for the petitioner*.

Harish Rathee, Sr. D.A.G., Haryana.

H.N. Mehtani, Advocate for the H.P.S.C.

R.N. Lohan, Advocate for respondents no.3,5,6 & 7.

TEJINDER SINGH DHINDSA, J.

(1) The challenge in the instant writ petition is to the select list prepared by the Haryana Public Service Commission (hereinafter referred to as the Commission) for appointment to the post of Principals/Deputy Directors of Govt. Colleges (H.E.S.-I) (Group A) pertaining to the General Category with a further prayer for the issuance of a Writ in the nature of Mandamus for directing the Commission to prepare the select list afresh, strictly as per the criteria laid down for appointment to the post in question.

(2) Brief facts that would require notice are that the Commission issued advertisement dated 6.2.2009 (Annexure P-1) inviting applications for appointment to 8 posts of Principals/Deputy Directors of Govt. Colleges (H.E.S.-I) (Group A) out of which two posts were reserved for Scheduled

Castes and one for the Backward Caste of Haryana. The closing date for submission of application forms was stipulated as 27.2.2009. The essential qualifications stipulated for the post were in the following terms:-

“Essential Qualifications:-

(i) A Master's degree with at least 55% marks or its equivalent grade of B in the 7 point scale letter grades O, A, B, C, D, E & F:

(ii) Ph.D or equivalent published work.

(iii) Total experience of 15 years of teaching/research in Universities/Colleges and/or other institutions of Higher Education.

(iv) Knowledge of Hindi/Sanskrit upto Matric standard.”

(3) It has been pleaded that the petitioner possessed the prescribed essential qualifications and accordingly had applied for the post under the General Category. Petitioner was interviewed by a Board duly constituted by the Commission and the result was declared on 10.8.2010. However, the name of the petitioner did not figure in the list of selected candidates. The petitioner, thereafter, sought information under the provisions of the R.T.I Act as regards the criteria adopted by the Commission for selection to the post in question, marks obtained by candidates in personal achievements and interview separately as also her position in the merit list along with marks obtained. In response to such information having been sought, the Commission disclosed to the petitioner the criteria for assessing the relative merit of the candidates through viva voce for selection to the post in question, which was in the following terms:-

<i>“Total marks of the Viva-voce:</i>	<i>100 marks</i>
<i>1. Personal Achievements</i>	<i>40 marks</i>
<i>a. Educational Qualifications</i>	<i>25 marks</i>
<i>iv) Master's degree</i>	
<i>Second Division :</i>	<i>10 marks</i>
<i>First Division :</i>	<i>15 marks</i>
<i>v) D.Sc/D.Litt or any other higher relevant qualification :</i>	<i>05 marks</i>

- vi) *Postgraduate (1st position in university)* 05 marks
Postgraduate (2nd position in university) 03 marks
Postgraduate (3rd position in university) 02 marks.
- b. *Experience:* 10 marks

One mark per completed year of experience in the relevant field after attaining the basic qualification and required experience up to the closing date subject to maximum of 10 marks.

- c. *Published works:* 05 marks

Published work of high standard in journals of National and International repute.

2. *Interview:* 60 marks

The interview will be conducted through oral discussion and questioning. The questions and discussion will be directed to ascertain the personal qualities, knowledge, awareness, intelligence, presentation, expression, poise, bearing, articulation & speaking ability etc. 60 marks are assigned for the interview with the following break-up:-

- (i) *Knowledge, awareness, outlook & general interest etc.* 20 marks
- (ii) *Intelligence, initiative, decision making, expression, presentation etc.* 20 marks
- (iii) *Poise, bearing, behaviour, adaptability, articulation & other qualities.* 20 marks."

(4) Still further, the petitioner was informed that the last candidate selected against the General Category had secured a total of 70 marks, whereas the petitioner has secured 69 marks. As regards the break up the petitioner was informed that she has secured 27 marks out of a total of 40 marks as regards personal achievements and 42 marks out of a total of 60 marks earmarked for the interview.

(5) Learned counsel for the petitioner has vehemently argued that the selection process is vitiated inasmuch as the Commission has not assigned the correct marks in the light of the criteria disclosed and as such the select list pertaining to the General Category cannot be sustained. Towards raising such argument counsel would argue that the petitioner has not been given even a single mark towards the Published Works for which 5 marks have been assigned. It has been contended that the petitioner had to her credit a number of Published Works which were of a high standard in various journals and as such there could not be any basis to justify the awarding of zero marks in relation to such Published Works for which the requisite details had been furnished in the application form itself and such published material was even made available for perusal at the time of interview. That apart, a specific assertion has been made as regards Surinder Pal Singh, private respondent no.5 and it has been pleaded that such candidate had worked as Assistant Director, Colleges from 15.7.2004 till the date of submission of application form and as such his experience from 15.7.2004 onwards could not have been counted in the light of criteria disclosed and inspite thereof marks have been awarded to respondent no.5 towards such experience. A question has also been raised as regards the candidature of respondent no.6 by asserting that there were a number of suspicious cuttings in the mark sheet of M.A 3rd and 4th Combined Semester Examination and such cuttings and doubts have not been taken cognizance of by the Commission while including her name in the select list.

(6) Per contra, Mr. H.N. Mehtani, learned counsel appearing for the Commission has referred to the written statement duly filed and would submit that the marks have been awarded to the candidates strictly as per the criteria evolved by the Commission for selection to the post in question. It has been asserted that the petitioner being 1st Class M.Sc has been given 15 marks as per criteria and since she obtained 1st position being Gold Medalist in Master Degree has also been awarded 5 marks for such achievement. Still further, the petitioner was also awarded 7 marks for experience under sub head (b) relating to experience. A further stand has been taken that the Published Works of the petitioner suffer from various ambiguities as regards their status i.e. having been published in national and international publications and accordingly, she was not awarded any marks for such Published Work. As regards the awarding of marks towards experience to respondent no.5 is concerned, it has been stated that respondent

no.5 had worked as Assistant Director, Colleges from 15.7.2004 which was in the relevant field after attaining the basic qualification and as such the experience from 15.7.2004 till the closing date of application forms was taken into consideration and he was awarded 16 marks rightfully towards experience under the head of personal achievements. The Commission has further taken a stand that the mark sheet submitted by Sh. Kamlesh Kumar, respondent no.6 was not considered doubtful in any manner and accordingly such candidate had been considered eligible and ultimately had secured sufficient marks to find a place in the select list.

(7) Learned counsel for the parties have been heard at length and the original application form of the petitioner that had been submitted to the Commission along with enclosures that had been handed over to the Court by the learned counsel appearing for the Commission in original has been perused. Mr. Mehtani has further apprised the Court that none of the selected candidates have been given any mark towards Published Works.

(8) It is not a matter of dispute that the selected candidates possessed the essential prescribed qualification for the post. The petitioner has not raised any question as regards the constitution of the Selection Committee/ Board duly constituted by the Commission for selection to the post in question. Still further, even though, a vague and bald assertion of nepotism and favoritism has been raised in the petition but still no categorical pleadings/ averments or any other suggestive material has been placed on record for this Court to draw an inference about the selection process having been initiated by malafides.

(9) It is the settled legal position that the Courts would show deference and due consideration to the recommendations of a premier recruiting agency constituted of distinguished experts in the field. In case of Dr. M.C. Gupta and others Vs. Dr. Arun Kumar Gupta and others, 1979 (2) S.C.C 339 the Hon'ble Supreme Court was considering a controversy regarding selection made by the State Public Service Commission for two posts of Professors of Medicines in the State Medical Colleges. Having considered the matter the Court had observed as under:-

"When selection is made by the Commission aided and advised by experts having technical experience and high academic qualifications in the sophisticated field, probing to the research

experience in technical subjects, the courts should be slow to interfere with the opinion expressed by experts unless there are allegations of malafides against them. It would normally be prudent and safe for the courts to leave the decision of academic matters to experts who are more familiar with the problem they face than the courts generally can be...."

(10) In case of *Dalpat Abasahed Solunke & Others V. Dr. B.S. Mahajan & others* (1990) 1 S.C.C 305 the Hon'ble Apex Court had observed as follows:-

"... .. 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 candidates. 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 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."

(11) In view of the settled legal position, this Court would have a very limited role particularly when no malafides have been alleged against the Members of the Selection Committee/Board. As a matter of principle, this Court would not make an endeavour to sit in appeal over the decision of a duly constituted Selection Committee/Board. The Court must realize its constraints and limitations in such matters. Even though, the petitioner may have fell short by only one mark, yet, in an overview of the matter no basis for interference is made out. The question as regards the published

material of the petitioner being of sufficient high standard i.e. having been published in journals of national and international repute would be best left to the judgement of the expert concerned. This Court would lack the expertise and competence to delve into such a matter. As regards the assigning of other marks towards educational qualifications under the head of personal achievements is concerned, the factual stand taken by the Commission has gone unrebutted.

(12) For the reasons recorded above, I find no merit in the present writ petition and the same is, accordingly, dismissed.

(13) Petition dismissed.

P.S. Bajwa