

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 28.01.2016

ORIGINAL APPLICATION NO. 060/00075/2014

Chandigarh, this the 05th day of February, 2016

...
**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

...
Tarun Bhutani, son of Sh. Sohan Lal, R/o H. NO. 2282, Sector 19-C,
Chandigarh.

....APPLICANT

BY ADVOCATE: SHRI SOURABH GOEL

VERSUS

1. U.T. Chandigarh through its Administrator, U.T. Chandigarh.
2. Law and Prosecution Department, U.T. Chandigarh, Deluxe Building, U.T. Secretariat, Sector 9, Chandigarh, through its Director.
3. Legal Remembrancer-cum-Director of Prosecution, Law and Prosecution Department, U.T. Chandigarh, Deluxe Building, U.T. Secretariat, Sector 9, Chandigarh.
4. Government Medical College & Hospital, Sector 32, Chandigarh through its Director Principal.
5. Vihsal Tiwari, s/o Sh. Dinesh Tiwari, R/o #22/11, Pehowa, District-Kurukshestra, Haryana (136128)
6. Sandeep s/o Sh. Mohinder Singh, R/o VPO- Sisai (Bolan) Tehsil Hansi, District-Hissar, Haryana (125049).
7. Dilip Kumar, s/o Sh. Madan Lal, R/o VPO Mouli, District Panchkula, Haryana.
8. Monika Goyat, D/o Sh. Shamsher Singh, R/o # 1022, Sector 16 & 17, Hissar, Haryana.
9. Yadwinder Singh, s/o Bakshish Singh, R/o C-875, Urban Estate, Phase-2, Jamalpur, Ludhiana (Punjab).
10. Priya Bhardwaj, D/o Sh. B.L. Bhardwaj, R/o # 3457, Sector 40, Chandigarh.

11. Gurmehtab Singh, s/o Sh. Joginder Singh, R/o # 399, Sector 15-A, Chandigarh.
12. Sahil Singla, S/o Sh. Chander Shekhar Singla, R/o B- 36, Yamuna Enclave, Panipat, Haryana.
13. Mohit Singh, s/o Sh. Vinod Kumar, R/o VPO Lalru, near Gurudwara, Tehsil-Derabassi, District Ajitgarh, Mohali 140501.
14. Loveleen Singh, d/o Sh. Amrik Singh, R/o Vill. Dhandda, P.O. Hazara, District-Jalandhar (Punjab).
15. Deepak Kumar, s/o Sh. Kishan Chand R/o VPO Baliala, Tehsil Ratia, District Fatehabad.
16. Anil Kumar S/o Sh. Mahender Singh R/o Village Bhola Khalsa, P.O. Sanwat, Tehsil Nigdhu, District Karnal (Haryana)-132157.
17. Anju D/o Sh. Bharat Singh Soni, R/o Gali NO.11/3, Shanti Nagar, Kount Road, Dadri Gate, Bhiwani (Haryana).
18. Mandeep Singh Kainth S/o Sh. Avtar Singh Kainth, R/o VPO Kaonke Kalan, Tehsil Jagraon, Ludhiana-142035.
19. Surinder Pal Singh S/o Sh. Amar Chand, R/o # 1393, Phase-3 B2, Ajitgarh, Mohali (Punjab)-160059.
20. Vinod Kumar S/o Sh. Ved Parkash, R/o # 38, Housing Board Colony, Ferozpur City (Punjab).
21. Rakesh S/o Sh. Karanvir Singh, R/o # 330, Pipliwala Town, Manimajra, Chandigarh.
22. Harpal Singh S/o Sh. Sukhdev Singh, R/o # 399, Sector 15-A, Chandigarh.

....RESPONDENTS

BY ADVOCATE:SHRI ARVIND MOUDGIL FOR RESPONDENTS NO.1-4
 SHRI R.K. SHARMA FOR RESPONDENTS NO. 8,9,19 & 21.

ORDER

HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER(J):-

Facts in this case are not in dispute. The applicant after completing LLB Degree in the year 2007 joined as Law Officer on 12.08.2008 in Govt. Medical College and Hospital, Chandigarh

(respondent no. 4) on contract basis after selection pursuant to public notice. The contract was extended from time to time. Post of Law Officer in respondent no. 4 was amalgamated in the cadre of Law Officers of Law and Prosecution Department, U.T. Chandigarh (respondent no. 2) vide letter dated 16.02.2013 (Annexure A-2). Respondent no. 2 vide advertisement dated 06.09.2013 (Annexure A-4) invited applications for filling up 6 posts of Law Officers. The applicant submitted his application in time for the said post in general category. The applicant also appeared in written test (objective type) conducted by the official respondents. Result thereof was not communicated to the applicant. On the other hand, respondent no. 2 called 18 candidates (private respondents no. 5 to 22) for interview vide notice dated 07.01.2014 (Annexure A-7).

2. The case of the applicant is that interview was not required to be conducted as per Recruitment Rules and advertisement in case of written test. Interview was to be conducted only if written test was not held. Respondent no. 2 thus did not follow the procedure for selection as given in the advertisement. Thus the selection process has been alleged to be arbitrary, illegal and malafide. Accordingly the applicant has claimed the following relief in this O.A.:-

"i) an appropriate order be issued and the selection process initiated by the respondent no. 2 for filling up the posts of Law Officers in the Law and Prosecution Department, U.T. Chandigarh be quashed;

- ii) an appropriate order or direction be issued and the impugned notice dated 07.01.2014, Annexure A-7, be quashed calling respondents No. 5 to 22 for interview;
- iii) an appropriate order or direction be issued and the respondent No. 2 be directed to declare the result of written examination;
- iv) an appropriate order or direction be issued to the respondents to consider the case of the applicant for appointment to the post of Law Officer after giving due benefit of his experience and academic qualifications."

3. Official respondents no. 1 to 3 in their written statement, while not disputing the factual position, refuted the claim of the applicant. It was alleged that the applicant participated in the selection process and is, therefore, estopped from challenging the same. Result of the written test conducted on 17.12.2013 as well as of the interview conducted on 13/30.01.2014 had already been uploaded on the website of the Chandigarh Administration. The applicant has tried to lay claim to the post of Law Officer on the basis of his experience as Law Officer on contract with respondent no. 4, but according to Recruitment Rules and advertisement (Annexure A-4), no benefit of the experience has to be given to any candidate. The applicant in his representation (Annexure A-8) also wrongly mentioned his Roll No. as 206 although his Roll No. was 216 for written test. Scrutiny of the applications was required to identify prima facie eligible and ineligible candidates. The applicant could not pass the written test with good marks. He secured only 58 marks whereas the last candidate short listed for interview in general category secured 70 marks. Against one post of each category, 3 candidates from the top in the merit were

called for interview. The applicant also himself alleged that O.A. NO. 060/00015/2014 titled Naveen Singla Vs. U.T. Chandigarh was similar. The same has already been disposed of by this Tribunal vide order dated 30.01.2014 (Annexure R-1). Various grounds pleaded by the applicant to challenge the selection process were controverted. Some other pleas were also raised.

4. During the pendency of the O.A., 5 candidates were selected as submitted during the course of hearing of the O.A. Out of private respondents, only respondents no. 5,8,9, 19 &21 appeared and the remaining private respondents did not appear. The private respondents who put in appearance also adopted written statement filed by the official respondents no. 1-3.

5. Applicant filed replication and controverted the stand of the official respondents and reiterated his own version.

6. We have heard counsel for the parties and perused the case file.

7. Counsel for the applicant emphatically contended that written test was to be resorted to only if after preliminary scrutiny, large number of applications were found to be there and in that event, interview was not to be held. Conversely, if written test was not to be held, then candidates had to be called for interview. It was thus argued that since written test was held, interview could not be conducted. It was also argued that since there were not large number of applications, written test was also not required to be held. It was also submitted that preliminary scrutiny was not done at first stage. It

was also argued that the applicant was not called for interview although there was no stipulation of 'cut off marks' in written test.

8. On the other hand, counsel for the official respondents submitted that the applicant secured 56.5 marks in written test (although according to written statement, the applicant secured 58 marks) whereas last candidate called for interview in general category secured 70 marks and, therefore, the applicant was not called for interview being lower in merit. It was also submitted that in all 140 applications were received and on preliminary scrutiny, 111 eligible candidates were found and two more candidates were added as per the order of the Tribunal. Out of them, 105 candidates i.e. 86 of general category, 10 of Scheduled Castes category and 9 of OBC category appeared in the written test. It was also argued that interview was held as per Recruitment Rules and advertisement.

9. We have carefully considered the matter. Relevant part of the advertisement on which stress was laid down by the counsel for the applicant is reproduced herein below:

"It is made clear that on receipt of applications, all the application will be scrutinized and after scrutinizing at the first stage on the basis of educational qualifications, experience, cut off marks, date of receipt of applications and amount of fee etc. if it is found still that there are large number of applications, then to further short list the applications, the department may conduct written test (Objective Type) of 100 marks ... In case the department does not opt to conduct written test, then eligible candidates after short-listing will be called for interview before the Selection Committee and the merit shall be assessed on the basis of percentage in academic qualification, experience, marks obtained in interview etc."

Counsel for the respondents has stated that preliminary scrutiny was done and thereupon 111 candidates were found eligible out of 140

candidates who had submitted applications. Consequently, contention of the counsel for the applicant that preliminary scrutiny was not done cannot be accepted.

10. Keeping in view the number of candidates, the official respondents decided to hold written test. No fault can, therefore, be found with the holding of the written test. Moreover, the applicant himself participated in the written test and, therefore, he is estopped from claiming that written test was not required to be held.

11. From the relevant extract of the advertisement as reproduced herein before, it cannot be said that interview could not be held after conducting written test. However, even assuming that interview could not be held after written test, then the selection could be done on the basis of the merit in the written test. There were 3 posts of general category, 2 of OBC category and 1 of SC Category. In the general category, 9 candidates from the top of the merit in written test were called for interview and the last candidate called for interview had secured 70 marks whereas the applicant secured 56.5 marks only in the written test. Thus, even on the basis of the written test, the applicant did not merit selection for the post.

12. Half hearted contention of counsel for the applicant that all the candidates who appeared in the written test should have been called for interview cannot be accepted because written test was conducted to short list the candidates to be called for interview. Respondents called candidates to the extent of 3 times of the posts of each category as is the usual standard practice in most of the selection processes

having written examination and interview. The applicant being far below in the merit in the written test could not have been called for interview.

13. For the reasons aforesaid, we find that examined from any angle, the applicant has no case. He has miserably failed to come in the merit list in the written test. The O.A. is devoid of merit and is accordingly dismissed.

**(JUSTICE L.N. MITTAL)
MEMBER(J)**

**(RAJWANT SANDHU)
MEMBER(A)**

**Dated: 05.02.2016,
'SK'**