

**(2010) 05 P&H CK 0282**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Writ Petition No. 4137 of 2010

Surender Gaur

APPELLANT

Vs

The Staff Selection Commission

RESPONDENT

**Date of Decision:** May 26, 2010

**Acts Referred:**

- Constitution of India, 1950 - Article 226, 227

**Citation:** (2010) 159 PLR 793 : (2011) 1 SLR 299

**Hon'ble Judges:** Ajay Kumar Mittal, J

**Bench:** Single Bench

**Final Decision:** Dismissed

**Judgement**

Ajay Kumar Mittal, J.

The petitioner, by way of the present writ petition filed under Articles 226/227 of the Constitution of India, is seeking quashing of the notice dated 28.1.2010 (Annexure P-5) issued pursuant to the instructions regarding short-listing contained in the advertisement dated 11.2.2009 (Annexure P-3) whereby the candidates for the post of Sanitary Inspector were short-listed on the basis of marks obtained in the Diploma of Sanitary Inspector by fixing minimum cut-off marks at 70%.

2. Briefly, the facts may be noticed. The petitioner did his graduation in Bachelor of Business Administration (B.B.A.) in the year April, 2002 and thereafter obtained diploma in the trade of Health Sanitary Inspector from August, 2007 to July, 2008 from the Department of Industrial Training and Vocational Education, Haryana by securing 135 marks out of the total 200 marks, i.e. 67.5%; On 11.2.2009, the respondent had invited applications for 29 posts of Sanitary Inspectors vide Advertisement No. 2/2009. The qualifications for the said post were described as under:

(i) Matric with Diploma in Sanitary Inspector,

(ii) Hindi/Sanskrit upto Matric Standard.

3. As the petitioner fulfilled the qualifications as stated in the advertisement and was eligible for the post of Sanitary Inspector, he submitted an application for the same. It was thereafter on 28.1.2010, a notice was got published by the respondent in various newspapers to the effect that keeping in view the large number of applications and as per the condition of the advertisement, the respondent-Commission had decided to short list the candidates upto 8 times of the advertised posts in each category for interview on the basis of essential academic qualification i.e. Diploma of Sanitary Inspector with the minimum cut-off of 70% marks. It is this fixation of 70% marks in the diploma as cutoff in each category that has necessitated the petitioner to approach this Court to challenge the same by way of the present writ petition.

4. Upon notice of motion having been issued, the respondent has filed reply wherein it has justified the condition of imposing the minimum cut-off in each category at 70% by stating that in the advertisement (Annexure P-3), special instructions had been given, according to which, possessing of the prescribed qualification would not entitle the candidate to be called for interview and the Commission may short list the candidates for interview by holding a written examination or on the basis of a rational criteria to be adopted by it.

5. I have heard learned Counsel for the parties.

6. The learned Counsel for the petitioner referred to a Single Bench judgment of the Jammu and Kashmir High Court in Arun Kumar Thapa (Dr.) v. Prof. Amitabh Matoo, Vice Chancellor, Jammu University 2004(2) S.C.T. 573, to contend that it is not essential that if a person possesses higher qualification, the same shall speak of better quality of a person. Learned Counsel has also referred to ground (ii) of para 10 of the writ petition to say that prescribing of minimum cut-off at 70% by the respondent was with mala fide intention to select their own candidates.

7. Learned Counsel for the respondent, on the other hand, placed reliance on a judgment of the Hon"ble Apex Court in Union of India and another Vs. T. Sundararaman and others, and argued that where a large number of applications are received, selection of the candidates may be done by short-listing them at the threshold of the process of selection by prescribing higher eligibility qualification to narrow down the field of selection.

8. The argument of the learned Counsel for the petitioner is devoid of any merit. The judgment relied upon by the learned Counsel for the petitioner has no bearing to the dispute in hand inasmuch as it does not relate to the issue of short-listing. Moreover, learned Counsel has not been able to refer to any material to show that there was any mala fide on the part of respondents in support of his assertion mentioned in para 10(ii) of the writ petition.

9. The advertisement issued by the respondent-Commission contained special instruction which was to the following effects

The prescribed essential qualification does not entitle a candidate to be called for interview. The Commission may short list the candidates for interview by holding a written examination or on the basis of a rationale criterion to be adopted by the Commission. The decision of the Commission in all matters relating to acceptance or rejection of an application, eligibility/suitability of the candidates, mode of and criteria for selection etc. will be final and binding on the candidates. No inquiry or correspondence will be entertained in this regard.

10. According to the aforesaid special instruction, the respondent was authorized to shortlist the candidates for interview by prescribing a written examination or by following any rational criteria for the said purpose. The respondent-Commission, in the present case, had decided to shortlist the candidates by fixing minimum cut-off marks at 70% The learned Counsel for the petitioner could not demonstrate that the fixation of aforesaid criteria for short listing the candidate was either arbitrary or unreasonable in any manner.

11. The issue before the Hon"ble Supreme Court in T. Sundararaman"s case? (supra) was identical where the Apex Court was dealing with a case where in the advertisement, it was provided that if a large number of applications were received, the Commission may shortlist the candidates for interview on the basis of higher qualification although, all applicants may possess the requisite minimum qualification and the same was held to be legal and valid. The Hon"ble Supreme Court in para 4 had observed as under:

4. The Tribunal has clearly erred in doing so. Note 21 to the advertisement expressly provides that if a large number of applications are received the commission may shortlist candidates for interview on the basis of higher qualifications although all applicants may possess the requisite minimum doc qualifications. In the case of Madhya Pradesh Public Service Commission Vs. Navnit Kumar Potdar and another, this Court had upheld short listing of candidates on some rational and reasonable basis. In that case, for the purpose of short listing, a longer period of experience than the minimum prescribed was used as a criterion by the Public Service Commission for calling candidates for an interview. This was upheld by this Court.

In the case of Government of Andhra Pradesh Vs. P. Dilip Kumar and Another, also this Court said that it is always open to the recruiting agency to screen candidates due for consideration at the threshold of the process of selection by prescribing higher eligibility qualification so that the field of selection can be narrowed down with the ultimate objective of promoting candidates with higher qualifications to enter the zone of consideration. The procedure, therefore, adopted in the present case by the Commission was legitimate.

In view of the above, there is no illegality or perversity in short listing the candidates by fixing minimum cut-off marks at 70% by the Commission.

Finding no merit in the writ petition, the same is dismissed.