

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP (T) No. 4169 of 2008  
Decided on 30.11.2010

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Suresh Kumar Sharma

.....Petitioner.

Versus

State of Himachal Pradesh and others

..... Respondents.

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***Coram***

***The Hon'ble Mr. Justice V.K. Sharma, Judge.***

Whether approved for reporting?<sup>1</sup> Yes.

**For the Petitioner : Mr. Abhinay Sharma, Advocate.**

**For respondents : Mr. Anil Jaswal, Dy. Advocate  
General, for respondent No. 1.  
Mr. D.K. Khanna, Advocate, for  
Respondent No.2.  
None for respondents No. 3 to  
9, despite actual date notice.  
Ms Veena Thakur, Advocate,  
vice Mr. Rahul Mahajan,  
Advocate, for respondent  
No.10.**

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**V.K.Sharma, Judge (Oral)**

The petitioner along with private respondents No. 3 to 9 appeared in the interview for the post of Lecturer Music (Vocal) in the College Cadre, conducted by respondent No.2-Commission in December, 1995. The private respondent No. 10 Dr. Indrani Chakarvorti, was associated in the interview as an expert in the field. At the end of selection process, though private respondents No. 3 to 9 were selected, yet the petitioner remained unsuccessful. He has challenged the selection process firstly on the ground that for the post of

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<sup>1</sup> Whether reporters of the local papers may be allowed to see the judgment?. Yes.

Lecturer Music (Vocal), instead of associating an expert from vocal side, respondent No.10, who admittedly was from instrumental side, was associated as an expert, thus vitiating the entire selection process. Secondly, it is alleged by the petitioner that respondent No.10 was also biased against him. On these averments the petition has been filed on the following prayers 7(i) to (iii):

- “i) That the selection and subsequent appointment of Respondents No. 3 to 9 made by the Respondents No. 1 & 2 may be quashed and set aside;
- ii) That the proceedings of Selection Committee constituted by the Respondent No.2 for selecting the candidates for Lecturers (College Cadre) in Music (Vocal) may be declared illegal and be quashed;
- iii) That the Respondent No.2 may be directed to re-conduct the interviews after constituting the same as per the law and by appointing an Expert Member in the subject of Music (Vocal) and to make fresh recommendations to Respondent No.1.”

2. In the reply filed on behalf of respondent No.2-Commission, the following stand has been taken vide para 6(i) to (vii):-

“Interviews for the posts of Lecturer Music (Vocal) were fixed for 13.12.1995 to 15.12.1995. Dr. (Miss) Indrani Chakravorti took part in the deliberations of the Interview Board w.e.f 13.12.1995 to 15.12.1995 and on 23.12.1995. Some candidates represented that Dr. (Miss) Indrani Chakravorti was only an Expert in Music (Instrumental). On these representations, the commission decided to associate another expert

of Music (Vocal), Shri Chaman Lal also w.e.f 14.12.1995. The Commission also decided that a chance may again be given to those candidates who had appeared before the Interview Board on 13.12.1995 so that they may also be again interviewed by the Interview Board which included an Expert of Music (Vocal) also. The Commission informed the candidates who had appeared on 13.12.95 to appear before the second Interview Board on 23.12.1995. It was also made clear to them that if they do not appear before the Interview Board on 23.12.1995, their performance in the interview held on 13.12.1995 would be taken into account. The petitioner appeared on 13.12.1995 and again on 23.12.1995 but could not be selected on account of his low merit as compared with selected candidates.”

3. A separate reply has been filed on behalf of private respondent No.10.

4. In view of the above reply on behalf of respondent No.2, it is apparent that on the representation of some of the candidates appearing in the aforesaid interview that respondent No.10 could not be an expert for selection to the post of Lecturer Music (Vocal), it was decided to associate another expert from the concerned field and in fact Shri Chaman Lal, who was such expert, was associated in the selection process w.e.f 14.12.1995. Since some of the candidates had already appeared in the interview on 13.12.1995, it was decided to give them another chance to appear before the Interview Board and the petitioner also availed that chance on 23.12.1995. However, he could not be selected on account of his low merit as compared to the selected candidates. With

this, the grievance raised by the petitioner that an expert from the concerned field was not associated does not survive.

5. Another contention raised by the petitioner is that he was student of respondent No. 10 in the University. During those days he along with some other students had submitted representations to the higher authorities regarding deplorable conditions prevalent in the Music Department, H.P. University, at that time and for removal of respondent No.10 who was then Chair-person of the said department and it was on this count that she was biased against him. It is settled that it is easy to allege bias but very difficult to prove it.

6. A perusal of representation Annexure A-2, would go to show that same bears signatures of as many as 44 signatories, some of whom are admittedly private respondents No. 3 to 9, who were selected in the same process. On this score alone, the allegation of bias would also not survive. Furthermore, it is a matter of common knowledge that interview boards constituted by Public Service Commissions comprise of either Chairman or a Member of the Commission, a Govt. nominee and an expert in the field. In this case when objection with regard to the competence of the expert (respondent No.10) was raised, the Commission took care to associate another expert from the concerned field i.e Music (Vocal).

6. Admittedly, the petitioner was also selected as Lecturer Music (Vocal) (College Cadre) in the next selection

process held in the year 1998 and is in Government service as such till date.

7. In view of the above, to my mind , the petitioner has not been able to make out a case for any interference with the impugned selection process and more so when it is settled that court cannot act as an expert in such matters. Accordingly, the petition is dismissed.

(V.K. Sharma)  
Judge

30<sup>th</sup> November, 2010.  
Lsp\*