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PRITPAL SINGH ETC. ETC.

v.

STATE OF HARYANA AND ORS.

JULY 27, 1994

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[S. MOHAN, JEEVAN REDDY AND S.P. BHARUCHA, JJ.]

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Service Law—Appointments—Members of police force—Must be selected objectively and fairly—Selection of Assistant Sub-Inspector of Police made by Haryana Subordinate Service Selection Board—Not objective and fair—It is in public interest that selections and appointments made consequent thereon be quashed—Appropriate directions made—Board directed to preserve answer papers and tabulation of marks for three months after declaration of results.

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The Haryana Subordinate Service Selection Board issued an advertisement inviting applications for the appointment of Assistant Sub-Inspectors of Police in the State of Haryana. Intending candidates were informed that they would have to appear in two written examinations of 100 marks each and, if they obtained 50% or more marks. They would be called for a physical test and an interview. Successful candidates would have to qualify in three out of four physical tests. A total of 3963 candidates were called to appear for the written examinations held on 19-2-1989. The results of the examinations were declared on 11-8-1989. 206 candidates qualified and were called for interview. On 27-10-1989, before the result of the selection had been declared, the Board resolved to destroy the answer books of the written examinations as there was no space to keep them in the Board's office. The final results of the examinations were declared on 6-4-1990. Thirty nine candidates were recommended for appointment to the State Government.

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Several unsuccessful candidates challenged the selection by filing writ petitions and alleged that members of the Board had given more marks at the interview to favorite candidates. The writ petitions were dismissed. The High Court having seen the mark sheets produced by the respondents duly signed by members of the Board, held that the submission of the writ petitioners was not well founded. These appeals had been

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filed against the Judgment of the High Court.

There being very serious allegations against the constitution, procedure and functioning of the Board, all respondents, including those who had been selected and appointed, were ordered to be duly notified. The appellants submitted that an inquiry by the C.B.I., should be ordered and the report thereof awaited for there might be other documents which the Board had not produced; that the marks sheet produced by the Board before the court could not have been the marks sheet produced by it before the High Court; that the members of the Board as presently constituted had been appointed by politicians inimical to the politicians who had appointed the Board as it was constituted at the relevant time and that the former were interested in maligning the latter so that the documents they produced could not be relied upon.

Allowing the appeals, this Court

HELD : 1.1. It is in the public interest that members of the police force should be selected objectively and fairly. In the instant case the selection of Assistant Sub Inspectors of Police made by the Haryana Sub-ordinate Services Selection Board was not objective and fair and must be quashed along with the appointments made by the State Government consequent thereto. [335-H, 336-A]

1.2. The answer papers of the written examinations were destroyed even before the result of the selection had been declared. The resolution passed by the Board stated that the Board had decided to destroy the answer papers as there was no space to keep them in the Board's office. In reply it was admitted that there was no such shortage of space. So great was the haste to destroy the answer papers that the destruction was already complete when the resolution was passed. The shortage of space could not have been so acutely felt so suddenly and the explanation contained in the resolution did not explain or justify the tearing hurry. The explanation was, therefore, suspect. [332-G-H, 333-A]

1.3. Ordinarily, the examiners would have themselves tabulated the marks given by them against the serial numbers or names of the candidates whose answer papers they had examined. No such tabulation had been produced by the Board. There were four written papers. The Board would have had to tabulate the marks obtained by each candidate in each of the four papers and aggregate the same for the purpose of ascertaining which of the candidates had obtained the qualifying marks or more. No

- A suchlabulation had been produced. There were 13 examiners. Ordinarily, there would be a moderation of the marks given by two or more examiners in the same subject so as to ensure that one had not been too strict and the other too lenient. Much paper pertaining to the physical statistics of the candidates declared to be successful at the written examination had been preserved by the Board. Very large sheets of papers with the names of the candidates and their qualifications, etc., typed thereon were placed before the members of the Board who interviewed them. Upon these sheets of papers there were large blanks, in that no notation had been made with regard to many candidates one after the other in serial order. Such notations were only in pencil and they did not always indicate how the candidate had fared. Along with these very large sheets of papers there was a small strip of paper relating only to the candidate who, for some reason, was interviewed on 3-9-1989. That strip of paper showed the final assessment of the candidate at the interview. There was not corresponding tabulation of final marks produced in respect of the candidate who appeared on the earlier dates of interview. [333-C-H, 334-A]

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- 1.4. The original marks sheet duly signed by members of the Board, produced before the High /Court was a compilation of six sheets held together by a tag and signed at the foot of the concerned sheet leaving a vast gap, which suggested that they intended to leave room for the addition of names to the list. The Board recommended to the State Government thereby nine candidates on 6-4-1990, twelve candidates on 11-4- 1990, one candidate on 25-4-1990, six candidates on 15-6-1990, one on 31-7-1990, two candidates on 17-6-1991 and one candidate on 14-11-1991. This left no doubt that this marks list had been, as was intended to be, manipulated by the addition of names thereto as and when some event took place. The strip of paper showing the final marks secured by a candidate interviewed on 3-9-1989 stated that the candidate had secured 20 marks at the interview but the marks sheet produced in the High Court showed that that candidate had secured eighteen and a half. [334-C-H, 335-A]

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- 1.5. It might be that there were among those selected some who deserved selection and who would, consequently, suffer as a result of the order of quashing the selection and the appointments made consequent thereon, therefore, directions were made that a fresh selection shall be made by the board for the 98 posts of Sub-inspectors of Police; that all the candidates who had applied pursuant to the advertisement and who were
- H found eligible shall be entitled to appear for the written examinations, the

total marks whereof shall be 200; that having regard to the fact that the candidates were around the age of 30, appropriate physical requirements be prescribed and those who were found to possess these physical requirements shall be called for interview, the marks whereof shall be 25. The Board is directed to preserve the answer papers of the candidates and the tabulations of marks made by the examiners for atleast three months after the declaration of the result of the selection. The Board and the State of Haryana were required to ensure that the selection was conducted fairly, objectively and transparently. No member of the Board as then constituted shall be permitted to have any thing to do with the selection now ordered. [336-B-H, 337-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5027-36 of 1994.

From the Judgment and Order dated 17.2.92, 21. 2.92, 13.3.92, 26.2.92 of the Punjab and Haryana High Court in L.P. A. Nos. 273/92, 291, 391, 287 to 290, 292-94 of 1992.

V. Shekhar, R.K. Bhatt, K.K. Mohan, Ravinder Bana, Mrs. Amita Gupta, Prem Malhotra and Pardeep Gupta for the Appellants.

Deepankar Gupta, Solicitor General, Satish Chandra, Govind Mukhtey, K. Madhav Reddy, Mahesh Babu, Maninder Singh Raj Kumar Gupta, Rajesh, Rishi Kesh, Mahabir Singh and Ms. Indu Malhotra for the Respondents.

The Judgment of the Court was delivered by

BHARUCHA, J. Special leave granted.

These civil appeals are directed against the orders of various Division Bench of the High Court of Punjab & Haryana, all of which found no ground to interfere with the Judgment of a learned single Judge whereby the writ petitions filed, *inter alia* by the present appellants, were dismissed. In substance, therefore, it is the judgment and order of the learned single judge which is under challenge.

The Haryana Subordinate Services Selection Board (now called "the Board") issued an advertisement inviting applications for the appointment of 40 Assistant Sub Inspectors of Police in the State of Haryana. Intending candidates were informed that they would have to appear in two written

- A** examinations of 100 marks each and, if they obtained 50% or more marks (40% or more for Scheduled Caste and Backward Class candidates), would be called for a physical test and an interview. They were also informed that successful candidates would have to qualify in three out of four tests, viz., two races and an high and a long jump. The advertisement specified 40 Posts because at that point of time the State Government had
- B** made a requisition upon the Board for 40 posts. On 1st February and 10th April, 1990, there were supplemental requisitions so that the total number of posts for which recommendations had to be made by the Board became 98.

- C** A total of 3963 candidates were called to appear for the written examinations held on 19th February, 1989 and 2169 appeared. On 11th August, 1989, the results of the written examinations were declared; 537 candidates qualified and were called for the physical test. Of these 206 qualified and were called to be interviewed. Interviews were held between 25th and 29th August, 1989, except for one candidate who was interviewed
- D** on 3rd September, 1989.

On 27th October, 1989, the Board resolved to destroy the answer-books of the written examinations. The resolution read :

- E** "Board observe that the large number of answer books of the following posts has been lying in the office for some time past unwantedly and lot of space has been covered in this way.

Sr. No.	Name of the post	Department
1.	Taxation Inspector	Excise & Taxation
2.	A.S.I.	Police

- F** We are in shortage of space as we have invited applications for various posts recently. The space is badly needed for keeping these
- G** applications.

- As such the board decides to destroy the answer-books of the above said posts as the result of the written examination in their cases have since been declared on 15.9.89 and 11.8.89 respectively. The candidates could get their answer-book rechecked by paying fee of Rs. 15/- for each paper within one month from the date of
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declaration of result of the written examination of these posts. i.e., 14.10.1989 and 10.9.89, respectively. As there is no space to keep such a large number of answer-book of candidates for these posts in the office, it has become essential to dispose of/destroy them at once. *As such the Board after taking the decision as above has destroyed all the answer-books of the candidates of above said examination today, i.e., 27.12.1989.*

Sd/-
Anand Singh Dangi
Chairman 27.12.89

Sd/-
Sukh Dev Singh
Member 27.12.89

Sd/-
Bachhan Ram
Member 27.12.89

Sd/-
Samey Singh Kamboj
Member 27.12.89

Sd/-
Niroal Malik
Member 27.12.89

Sd/-
Devi Dayal
Member 27.12.89

(Emphasis supplied.)

On 29th January, 1990, respondent No. 3-A, Anand Singh Dangi, resigned as Chairman of the Board. He was replaced on 6th April, 1990 by one Bani Singh. On the same day, i.e., 6th April, 1990, the results were declared by the Board. Thirty-nine candidates were then recommended for appointment to the State Government. On 11th April, 1990, Twelve candidates were recommended. On 25th April, 1990, one candidate was recommended. On 15th June, 1990, six candidates were recommended. On 31st July, 1990, one candidate was recommended. On 17th June, 1991, two candidates were recommended. On 14th November, 1991, one candidate was recommended.

Several unsuccessful candidates challenged the selection as aforesaid by filing writ petitions in the Punjab and Haryana High Court. The learned single Judge recorded in his judgment that the "had sent for the marks sheets containing the marks for the written test as well as for the interview. Learned counsel for the respondents had produced the original marks sheet duly signed by members of the Board." Having seen the marks sheet produced before him the learned judge came to the conclusion that the

- A submission of learned counsel for the writ petitioners that members of the Board had given more marks at the interview to favourite candidates was not well founded. Had been such effort, in his view, the members of the Board had every opportunity inasmuch as the requisition was for 98 candidates whereas they had stopped short on selecting 62. The learned Judge dismissed the writ petitions. The Division Bench of the High Court in appeals did not find any ground to interfere with his Judgment.

- At an earlier stage of the hearing before this Court, namely, on 12th July, 1993, an order was passed which stated that the submission made indicated that the problem to be resolved was much too serious to be dealt with on adversarial contentions. There were very serious allegations against the constitution, procedure and functioning of the Board. In view of the glaring infirmities that were noticed, all respondents, including those who had been selected and appointed, were ordered to be duly notified because it was possible that the court would decide that the entire selection process was infirm and quash the selections. The Chief Secretary of the State Government was directed to furnish, upon affidavit, particulars regarding the constitution of the Board, the names and qualifications of its members and to produce the record and minutes of the Boards' proceedings.

- The learned Solicitor General appearing for the Board has produced what remains of the Board's record pertaining to the impugned selection. The documents have been taken on file and we shall have occasion to refer to some of them.

- For the reasons which we now record, taken collectively, we are of the view that the selection made by the Board as aforesaid and the appointments made by the State Government pursuant thereto need to be quashed.

- As aforesaid, the answer papers of the written examinations were destroyed even before the results of the selection had been declared. The resolution which has been quoted above states that the Board had decided to destroy the answer papers as there was no space to keep them in the Board's office. There was a shortage of space because invitations for applications for various posts had been issued and space was badly needed for keeping the same. In reply to our query, the learned Solicitor General fairly stated that there was on such shortage of space. In any event, what is noteworthy about the resolution is its last sentence, which we have

emphasised. So great was the haste to destroy the answer papers that the destruction was already complete when the resolution was passed. The shortage of space could not have been so acutely felt so suddenly and the explanation contained in the resolution does not explain or justify the tearing hurry. The explanation is, therefore, suspect. A

The answer papers having been destroyed it becomes impossible to ascertain what marks each candidate had secured from the examiners upon the answer papers themselves. Ordinarily, the examiners would have themselves tabulated the marks given by them against the serial numbers or names of the candidates whose answer papers they had examined. No such tabulation has been produced by the Board. There were four written papers. The Board would, in any event, have had to tabulate the marks obtained by each candidate in each of the four papers and aggregate the same for the purposes of ascertaining which of the candidates had obtained the qualifying marks or more. No such tabulation has been produced by the Board. The resolution of the Board authorising payment to the examiners shows that there were 13 of them. There were four written papers. In each subject, therefore, there were more than one examiner and the answer papers of the candidates were distributed amongst them. Ordinarily, there would be a moderation of the marks given by two or more examiners in the same subject so as to ensure that one had not been too strict and other too lenient. No papers in this behalf have been produced by the Board. B C D E

Much paper pertaining to the physical statistics of the candidates declared to be successful at the written examination has been preserved by the Board and produced. That it has been preserved but not other documentation is noteworthy a candidate's height would remain ascertainable so long as he was alive. F

From the record produced by the Board it appears that very large sheets of paper with the names of the candidates and their qualifications, etc., typed thereon were placed before the members of the Board who interview them. Upon these sheets of paper there are large blanks, in that no notation has been made with regard to many candidates one after the other in serial order. Such notations as there are in pencil and they do not always indicate how the candidates had fared. Along with these very large sheets of paper there is a small strip of papers relating to the only G H

- A candidate who, for some reason, was interviewed on 3rd September, 1989. This strip of paper shows the final assessment of the candidate at the interview. There is no corresponding tabulation produced in respect of the candidates who appeared on the earlier dates of interviews. In other words, there is no tabulation of the final marks awarded to these candidates at the interview.

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- Produced before us by the Board is the document which the learned Solicitor General stated, on instructions, had been produced before the learned Single Judge which he referred to as the original marks sheet duly signed by members of the Board". It is a compilation of six sheets of foolscap paper. At the bottom of each sheet the rubber stamp Government of Haryana appears. The sheets set out in typescript against serial numbers the roll numbers and names of the successful candidates and the marks secured by them at the written examination and the interview and the total there of. The sheets are held together by a tag. The last serial number and the candidate's name and particulars are typed a little above the middle of the last sheet. The last sheet is signed by all the members of the Board but at its foot. In other words, between the last typewritten entry on the last page and the signatures of the members of the Board thereon there is a yawning blank of about seven inches. It is reasonable to expect that, had the members of the Board signed this marks list after they had selected the last candidate, they would have signed it immediately below the serial number, roll number, name and particulars of that candidate. The fact that they did not do so but signed at the foot of the concerned sheet leaving a vast gap itself suggests that they intended to leave room for the addition of names to the list. This, taken together with the fact that the Board recommended to the State Government thirty-nine candidates on 6th April, 1990, twelve candidates on 11th April, 1990, one candidate on 25th April, 1990, six candidates on 15th June, 1990, one candidate on 31st July, 1990, two candidates on 17th June, 1991 and one candidate on 14th November, 1991 leaves us in no doubt that this marks list has been, and was intended to be, manipulated by the addition of names thereto as and when some event took place. It does not require much imagination to guess what that event was.

- We have mentioned that there was one candidate who was interviewed singly on 3rd September, 1989 and that the strip of paper showing the final marks secured by him at the interview has been produced. That

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sheet shows that the candidate had secured 20 marks at the interview but the marks sheet referred to above shows that the candidate had secured eighteen and a half marks at the interview.

For all these reasons, taken together, we are satisfied that the selection made by the Board was not objective and fair and must be quashed along with the appointment more by the State Government consequent thereto.

Learned counsel for some of the selected candidates, fairly, did not address themselves to the pleadings when it was pointed out that this court had already taken the view that this was a matter which involved the public interest and could not be treated as purely adversarial, however, they drew attention to this Court's judgment in *Krishan Yadav and Anr. v. State of Haryana & Ors.*, JT. (1994) SC 45, where the selections made by this very Board of Taxation Inspectors and the appointment made consequent thereon had been quashed after an enquiry had been conducted by the Central Bureau of Investigation and the report thereon perused. It was submitted that in this case also an enquiry by the C.B.I. should be ordered and the report thereof awaited for there might be other documents which the Board had not produced. It was also submitted by a learned counsel that the marks sheet produced by the Board before us could not have been the marks sheet produced by it before the learned Single Judge in the High Court because, had it been produced before him, the learned Judge would have immediately been struck by the yawning gap between the last typewritten entry and the signatures of the members of the Board as presently constituted had been appointed by politicians inimical to the politicians who had appointed the Board as it was constituted at the relevant time and that the former were interested in maligning the latter so that the documents they produced could not be relied upon. In the first place, it is hardly conceivable that the members of the Board as then constituted would oblige the Members of the Board as presently constituted by appending their signatures to a document in such a manner as would make the document immediately suspect. In the second place, the learned single Judge accepted, which we do not, the reason for the destruction of the answer papers.

It is in the public interest that members of the police force should be selected objectively and fairly. The factors that we have enumerated

- A above satisfy us that the selection made by the Board was not objective and fair. It is, therefore, in the public interest that the selections and the appointments made consequent thereon be quashed forthwith.

- B We appreciate that it may be that there are among those selected some who deserved selection and who will, consequently, suffer as a result of this order. There is, regrettably, considering the state of the selection records, no way in such men can be identified. The public interest put-weighs their interest. The directions that we shall now give shall enable them to compete once again with those who had sought select with little or no disadvantage as a result of the years that have passed.

- C The appeals are allowed. The orders of the Division Benches under appeals and the judgment and order of the learned single Judge dismissing the writ petitions are set aside. The writ petitions are made absolute in the following terms : The selections made by the Board of Sub Inspectors of Police consequent upon the advertisement dated 21st January, 1988, as also
D the appointment made by the State of Haryana pursuant thereto are quashed.

- E A fresh selection shall be made by the Board for the 98 posts of Sub Inspectors of Police for which the Board had at the relevant time received requisitions from the State Government. All candidates who had applied pursuant to the advertisement dated 21st January, 1988, and who were found eligible shall be entitled to appear for the written examinations, the total marks whereof shall be 200. Those who are successful shall then appear for a physical test. Having regard to the fact that the candidates are now around the age of 30, the Inspector General of Police of the State
F of Haryana or an officer of equivalent rank shall, having regard to this age, prescribe appropriate physical requirements. Those candidates who are found to possess these physical requirements shall be called for interview. The marks whereof shall be 25. Candidates who are successful at the interview shall be required to submit to physical tests, namely two races
G and two jumps, the particulars of which shall also be prescribed by the Inspector General of Police or equivalent authority having regard to the age aforesaid.

- H The Board is directed to preserve the answer papers of the candidates and the tabulations of marks made by the examiners for atleast three months after the declaration of the results of the selection. All

records of the Board itself pertaining to the selection shall be maintained in files or registers chronologically and these shall be preserved for the aforesaid period. A

The advertisement announcing the fresh examinations shall state that all candidates who had applied in response to the advertisement dated 21st January, 1988, and who had been found qualified shall be entitled to appear. The advertisement shall be issued on or before 1st September, 1994. The advertisement shall state that those from among the aforesaid candidates who intend to appear at the written examination shall so intimate to the Board on or before 15th September, 1994. The written examination shall be held on and from 1st October, 1994. The evaluation of the marks obtained thereat shall be completed on or before 15th November, 1994 and the marks obtained shall be published in three prominent daily newspapers having a large circulation in the State of Haryana, in addition to being displayed on the Board's notice board. Candidate shall be called for physical test on or before 5th December, 1994. Candidates who qualify thereat shall be called for interview on or before 31st December, 1994. The results of the final selection shall be published on or before 15th January, 1995 in the three daily newspapers, aforementioned and also displayed on the Board's notice board. B C D

The Board and the State of Haryana are required to ensure that the selection is conducted fairly, objectively and transparently. No member of the Board as then constituted shall be permitted to have anything to do with the selection now ordered. E

The Board shall pay to each of the appellants costs quantified at Rs. 5,000.

R.A.

Appeals allowed.