

A CONSTABLE DAVINDER SINGH AND ORS.

v.  
STATE OF HARYANA AND ORS.

DECEMBER 15, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Service Law—Selection of Constables—Selection process—Written test and parade—Reasons disclosed by the Selection Committee in respect of failed candidates—Selection was done objectively—No arbitrary exercise of power and hence no need for fresh selection test.*

Appellants were among the 40 candidates who were called for the selection of constables. Selection committee was constituted of three officers. Out of 40 candidates 20 were selected after a selection process which consisted of written test and parade.

D The failed candidates approached the High Court and one of them was found to be not treated properly and the High Court ordered for the fresh test and that candidate was selected. Other candidates approached this court with an appeal.

E On behalf of the appellants, it was contended that selection of constable was not fair and was vitiated by ministerial interference. And also, that selected candidates happened to have worked with some of the VIPs as gunmen etc. Therefore selection does not appear to be objective. It was further contended that over-writings against the names of some appellants in the select list establish that some attempts were made to see that they are failed. Appellants sought a direction that a fresh opportunity should be given to them by conducting the test afresh by an independent body of officers.

Dismissing the appeal, this Court

G HELD : 1.1. Selection was done objectively and was not vitiated on account of the fact that some of the selected candidates appeared to have worked with some VIPs, as gunmen. [788-G]

1.2. The selection process consisted of both written test and parade.

H Marks were given to each candidate and relevant entries were made against

each in the respective columns. In the remarks column entry was made A against each candidate who had failed, disclosing reason for failure.

[788-E]

1.3. There is no tampering with the remarks or the marks secured by the appellants. As against the first appellant, in the remarks column, it was stated that he had failed in the parade. Thus there is no over-writing B against the marks or entries made in the respective columns against the candidates. [788-B]

2. Nothing worthwhile could be found from the record to hold that the selection is vitiated by *mala fides* or is beset with illegality to give direction to make fresh selection of the appellants. Hence there is no arbitrary exercise of power or any other factor which goes to the root of the selection. C

[789-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 12133-35 of 1995.

From the Judgment and Order dated 30.5.94 of the Punjab & Haryana High Court in C.W.P. No. 4635, 4708 & 5192 of 1994.

P.P. Rao, Raj Kr. Gupta, H.P. Sharm and Rajesh for the Appellants.

K.C. Bajaj and D.B. Vohra for the Respondents. E

The following Order of the Court was delivered :

Leave granted.

This appeal by special leave arises from the common order passed by the High Court of Punjab & Haryana on 30th may, 1994 in CWO No. 4635/95 and batch. F

In view of the allegations made in the appeal that selection of Constable was not fair and was vitiated by ministerial interference, we had summoned the original record and we have carefully perused the select list. Three officers had participated in selecting the candidates and all of them had signed at the bottom of each page of the select list. G

Shri P.P. Rao, learned senior conseil for the appellants, contended that though one candidate initially had failed, when the High Court had summoned the records and noted on perusal thereof that he was not H

A properly treated, it had directed the Government to conduct the test afresh and he was, thereafter, selected. It is next contended that there was over-writings against the names of some appellants in the select list which would establish that some attempts were made to see that they are failed.

B There is no tempering with remarks or the marks secured by the appellants, as appears from the perusal of records. As against the first appellant, Davinder Singh, initially 10 marks were given and two more marks were added making it 12. In the remarks column, it was stated that he had failed in the parade. As regards marks secured by other candidates, there is no over-writing against the marks or entires made in the respective columns.

C

D Shri Rao then contended that before this Court the appellants are only six and if fresh opportunity is given to them for selection by an independent body of officers, they would stand fair chances for success in the test and if they are selected, it would be well and good and if they would fail, it would be the end of the dispute. In that behalf, he also stated that though selection was made after calling 40 candidates, out of which about 20 selected candidates happened to have worked with some of the VIPs as gunmen etc., the selection does not appear to be objective.

E We are unable to accede to the contention. The selection process consisted of written test and parade. Marks were given to each candidate and relevant entires were made against each in the respective columns. In the remarks column entry was made against each candidate who had failed disclosing the reason for failure. We do not find that the officers in the selection committee were actuated by hostility against the appellants. Though one candidate is said to be a relative of one of the selecting officers, he got selected and the same may be bad, but we find that selection was done objective to select 40 candidates. We do not think that selection was vitiated on account of the fact that some of the selected candidates appeared to have worked with some VIPs as gunmen. We cannot assume that on that account other selection was vitiated by any malice or error of law.

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H Futher contention raised was that since the scheme has been scrapped, liberty may be given for conducting a fresh test by independent body. Mr. K.C. Bajaj, learned counsel for the respondents, stated that selection test cannot exclusively be conducted for the applicants. It may not be proper to give any direction to conduct any special test for the

appellants alone unless we are satisfied that the selection process is vitiated by *mala fide* of arbitrary exercise of power or any other factor which goes to the root of the selection. Except that one of the officer's relative was stated to be a member of the selection committee , nothing worthwhile could be found from the record to hold that the selection is vitiated by *mala fides* or is beset with illegality to give direction to make fresh selection of the appellants. A B

We do not think that it is a case warranting interference and to give directions sought for. The appeals are accordingly dismissed. No costs.

M.K.

Appeals dismissed.