

SHRI KANWAR SINGH
v.
STATE OF HARYANA AND ORS.

MARCH 3, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

Service Law :

Selection—Assistant Sub-Inspector—Appellant earlier temporarily promoted to the post but later reverted—Selection for the posts conducted on the basis of sum of marks obtained in written examination and interview—Appellant not selected as he could not secure good marks in interview—Writ petition of appellant contending that he should have been given weightage for his experience dismissed by High Court—Held, High Court was right in holding that it was a competition open to all and by fortuitous circumstance of previous temporary promotion separate marks could not be allocated in which event such persons would steal a march over others—No allegation of mala fide or arbitrariness in selection was made—There is no illegality in the judgment of High Court warranting interference.

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) E
No. 5567 of 1997.

From the Judgment and Order dated 1.10.96 of the Punjab & Haryana High Court in W.P. No. 15380 of 1996.

Arvind Jain and Charu Nirwani for the Petitioner. F

The following Order of the Court was delivered :

Delay condoned.

This special leave petition arises from the judgment of the Division G
Bench of the Punjab and Haryana High Court, made on October 1, 1996 in CWP No. 15380/96.

Admittedly, the petitioner was promoted on an earlier occasion temporarily, as Assistant Sub-Inspector in the year 1988 but ultimately the same came to be challenged and was set aside by an order of this Court. H

- A Thereafter, as per the directions of this Court, written examination and interview were conducted. In the written examination, the petitioner secured 105 marks. Subordinate Service Selection Board has allotted 75% of the marks to the written test and 25% of marks to the interview. The petitioner having secured 105 marks, could not be selected since he could not make up in the interview. As many as 97 candidates were selected. The petitioner having remained unsuccessful, filed writ petition in the High Court challenging the selection process. He contended that since he had previous experience, some weightage would have been given out of 25% marks on the basis of the previous experience. However, since no consideration in that behalf was given, the selection was bad in law. The High Court has pointed out and, in our view rightly, that it is a competition open to all the persons. By fortuitous circumstances of the previous temporary promotion, separate marks could not be allocated for the previous service in which event such persons will steal a march over the other candidates in the open competition. The view taken by the High Court is clear, justifiable and well founded. The learned counsel for the petitioner has contended that the persons who secured 80 marks in written examination have been selected by granting full 25% of the marks while the petitioner who secured 105 marks in the written examination could not be selected by being given some weightage out of 25% marks allotted for interview. As a consequence, the selection is arbitrary. The learned counsel seeks to place before us the list of such candidates who secured 80 marks, said to have been published by the Board. Since the document had not been made part of the record in the High Court, we cannot look into the document. It is not the case of the petitioner that he had raised this point in the High Court and the High Court has failed to consider it. On the other hand, the High Court has pointed out thus :

- G "Records now before us show that the petitioner did not do fairly well to get high marks at the interview. Consequently, persons who got similar marks as that secured by the petitioner in the written test, got higher rank by virtue of the marks secured by them at the interview. Marks in the written test together with that obtained at the interview decided the rank in the select list."

- H It indicates that the High Court has considered the record of the Selection Board placed before it and on comparative evaluation of the

candidates who secured combined marks in the written test as well as in the interview, 97 candidates were selected on the basis of the merit. The High Court has pointed out that no allegation of *mala fides* or arbitrariness of selection was made. Under these circumstances, we do not find any illegality in the judgment of the High Court warranting interference. A

The special leave petition is dismissed. B

R.P.

Petition dismissed.