

Pritpal Singh vs State Of Haryana on 27 July, 1994

Equivalent citations: 1995 AIR 414, 1994 SCC (5) 695, AIR 1995 SUPREME COURT 414, 1994 (6) SCC 36, 1994 AIR SCW 4622, 1994 AIR SCW 4624, (1994) 69 FACLR 704, (1994) 28 ATC 226, (1994) 4 SERVLR 567, (1994) 5 JT 376 (SC), 1994 (6) SCC 695, (1994) 4 SCT 591, 1994 UJ(SC) 2 359, (1994) 2 CURLR 639, (1994) 69 FACLR 651, (1994) 3 SCJ 305, 1994 SCC (L&S) 1239, (1995) 1 SERVLJ 23, (1994) 28 ATC 169, (1994) 5 JT 245 (SC)

Author: S.P Bharucha

Bench: S.P Bharucha, S. Mohan, B.P. Jeevan Reddy

PETITIONER:

PRITPAL SINGH

Vs.

RESPONDENT:

STATE OF HARYANA

DATE OF JUDGMENT 27/07/1994

BENCH:

BHARUCHA S.P. (J)

BENCH:

BHARUCHA S.P. (J)

MOHAN, S. (J)

JEEVAN REDDY, B.P. (J)

CITATION:

1995 AIR 414

1994 SCC (5) 695

JT 1994 (5) 245

1994 SCALE (3) 627

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by BHARUCHA, J.- Special leave granted.

2. These civil appeals are directed against the orders of various Division Benches 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.

3. 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 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 jump and a long jump. The advertisement specified 40 posts because at that point of time the State Government had made a requisition upon the Board for 40 posts. On 1-2-1990 and 10-4-1990 there were supplemental requisitions so that the total number of posts for which recommendations had to be made by the Board became 98.

4. A total of 3963 candidates were called to appear for the written examination held on 19-2-1989 and 2169 appeared. On 11-8-1989, 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 25-8-1989 and 29- 8-1989, except for one candidate who was interviewed on 3-9- 1989.

5. On 27-10-1989, the Board resolved to destroy the answer-books of the written examinations. The resolution read:

"Board observe that the large number of answer books of the following posts has been lying in the office for some time past unwontedly 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 P o l i c e

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

As such the Board decides to destroy the answer-books of the abovesaid posts as the result of the written examination in their cases have since been declared on

15-9-1989 and 11-8- 1989 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 declaration of result of the written examination of these posts, i.e., 14-10-1989 and 10- 9-1989, respectively. As there is no space to keep such a large number of answer books 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 abovesaid examination today, i.e. 27-12-1989.

Sd/-
Anand Singh Dangi
Chairman 27-12-1989

Sd/-
Bachha Ram
Member 27-12-1989
Sd/-
Nirpal Malik
Member 27-12-1989

Sd/-
Sukh Dev Singh
Member 27-12-1989

Sd/-
Samey Singh Kamboj
Member 27-12-1989

Sd/-
Devi Dayal
Member 27-12-1989"

(emphasis supplied.)

6. On 29-1-1990, Respondent 3-A, Anand Singh Dangi,

resigned as Chairman of the Board. He was replaced on 6-4- 1990 by one Bani Singh. On the same day, i.e., 6-4-1990, the results were declared by the Board. Thirtynine candidates were then recommended for appointment to the State Government. On 11-4-1990, twelve candidates were recommended. On 25-4-1990, one candidate was recommended. On 15-6-1990, six candidates were recommended. On 31-7- 1990, one candidate was recommended. On 17-6-1991, two candidates were recommended. On 14-11-1991, one candidate was recommended.

7. 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 he "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 sheets duly signed by members of the Board". Having seen the marks sheets produced before him the learned Judge came to the conclusion that the submission of learned counsel for the writ petitioners that members of the Board had given more marks at the interview to favorite candidates was not well founded. Had there been any 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 Benches of the High Court in appeals did not find any ground to interfere with his judgment.

8. At an earlier stage of the hearing before this Court, namely, on 12-7-1993, an order was passed which stated that the submissions 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 Board's proceedings.

9. 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.

10. 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.

11. 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 no 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.

12. 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.

13. 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 no other documentation is noteworthy; a candidate's height would remain ascertainable so long as he was alive.

14. 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 interviewed 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 paper relating to the only candidate who, for some reason, was interviewed on 3-9-1989. 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.

15. 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 thereof. 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 sheet concerned 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 6-4-1990, twelve candidates on 11-4-1990, one candidate on 25-4-1990, six candidates on 15-6-1990, one candidate on 31-7-1990, two candidates on 17-6-1991 and one candidate on 14-11-1991 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.

16. We have mentioned that there was one candidate who was interviewed singly on 3-9-1989 and that the strip of paper showing the final marks secured by him at the interview has been produced. That sheet shows that the candidate had secured 20 marks at the interview but the marks sheet referred to above shows that candidate had secured eighteen and a half marks at the interview.

17. 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 appointments made by the State Government consequent thereto.

18. 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 v. State of Haryana*¹, where the selections made by this very Board of Taxation Inspectors and the appointments 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 CBI 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 thereon. It was submitted 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. 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.

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

20. We appreciate that it may be that there are among those selected some who deserved selection and who will, consequently, suffer as a result 1 (1994) 4 SCC 165 : 1994 SCC (L&S) 937 : (1994) 27 ATC 547:

JT (1994) 4 SC 45 of this order. There is, regrettably, considering the state of the selection records, no way in which such men can be identified. The public interest outweighs their interest. The directions that we shall now give shall enable them to compete once again with those who had sought selection with little or no disadvantages as a result of the years that have passed.

21. The appeals are allowed. The orders of the Division Benches under appeal 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 21-1-1988, as also the appointments made by the State of Haryana pursuant thereto are quashed.

22. A fresh selection shall be made by the Board for the 98 posts of SubInspectors 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 21-1-1988, 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 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 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.

23. The Board is directed to preserve the answer papers of the candidates and the tabulations of marks made by the examiners for at least 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 also be preserved for the aforesaid period.

24. The advertisement announcing the fresh examinations shall state that all candidates who had applied in response to the advertisement dated 21-1-1988, and who had been found qualified shall be entitled to appear. The advertisement shall be issued on or before 1-9-1994. 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 15-9-1994. The written examination shall be held on and from 1-10-1994. The evaluation of the marks obtained thereat shall be completed on or before 15-11-1994 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. Candidates shall be called for physical test on or before 5-12-1994. Candidates who qualify thereat shall be called for interview on or before 31-12-1994. The results of the final selection shall be published on or before 15-1-1995 in the three daily newspapers aforementioned and also displayed on the Board's notice board.

25. 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.

26. The Board shall pay to each of the appellants costs quantified at Rs 5000.