

Before B. S. Walia, J.

MAHESH KUMAR—*Petitioner*

versus

STATE OF HARYANA—*Respondents*

CWP No.29326 of 2017

April 05, 2019

Constitution of India, 1950—Arts.226 and 227—Rejection of candidature for Assistant Professor—Petitioner—Qualified candidate failed to send hard copy of online application within 15 days of result—Not considered for recruitment—No mandamus to accept procedurally incomplete applications—UPSC to stick to procedural requirement—Petition dismissed.

Held that the present case is such a case where, because of a very large number of applications received by the UPSC, if it is compelled to accept procedurally incomplete applications, there would be serious practical difficulties that it would have to encounter and this may very well lead to a break down in the system. We also cannot overlook the fact that the applications or Respondents are all highly educated persons claiming to have an LLB degree and three years' experience at the Bar. Therefore, it must be assumed that they fully understood the contents of the advertisement and the DAF. There was a duty cast on them to correctly fill up the DAF and they cannot be allowed to content that despite this, their application should be accepted even if it is incomplete only because procedure is the handmaid of justice. The matter may be looked at from another point of view. The UPSC has rejected the candidature of 45 persons due to non-submission of the required documents and or submission of documents in the wrong format. If any relief is granted to the Respondents before us, surely it would be appropriate to grant a similar relief to other similarly placed candidates, some of whom may not have approached the Tribunal for relief. If this exercise were to be undertaken, perhaps the entire examination would require to be cancelled. In our opinion this is neither in the interest of the candidates who have qualified nor is it in the public interest to cancel the entire examination for the sake of accommodating a few persons, such as the respondents.

(Para 6)

Ravi Verma, Advocate
for the petitioner.

Shruti Jain Goyal, DAG, Haryana.

Kanwal Goyal, Advocate
for respondent No.2.

B.S.WALIA, J. Oral

(1) Prayer in this petition is for the issuance of a writ in the nature of Certiorari for quashing Annexure P/7 dated 10.11.2017 as well as Annexure P/10 i.e. letter dated 22.11.2017 vide which the candidature of the petitioner for recruitment to the post of Assistant Professor (College Cadre) in the subject of English was rejected by respondent No.2 and further for the issuance of a writ in the nature of Mandamus directing the respondents to consider the candidature of the petitioner for recruitment to the post of Assistant Professor (College Cadre) in the subject of English against available four vacancies reserved for orthopedically handicapped persons in response to advertisement Annexure P/2 dated 16.02.2016 read with corrigendum Annexure P/3 dated 29.04.2016.

(2) Learned counsel for the petitioner contended that the petitioner, who was fully eligible for the post of Assistant Professor (College Cadre) in the subject of English, applied in response to advertisement Annexure P/2 dated 16.02.2016 read with corrigendum Annexure P/3 dated 29.04.2016. Result of the same was declared vide Annexure P/6 dated 23.10.2017. As per condition No.1 in the note appended to result Annexure P/6 dated 23.10.2017, qualified candidates were required to send hard copy of their online application forms along with self attested copies of their certificates/supporting documents to the commission's office addressed to the Secretary, HPSC, Bays No.1-10, Block-B, Sector-4, Panchkula, Haryana, through registered post or by personal delivery at reception within 15 days from 23.10.2017 i.e. date of publication of the result (i.e. upto 08.11.2017 by 05:00 p.m.) otherwise, their candidature would not be considered for recruitment. It is the stand of the petitioner that he did not come to know about the declaration of the result, therefore, could not submit the hard copy of the online application form along with self attested copy of certificates/supporting documents in the O/o the Commission within the stipulated period of time, as a result of which, he was not called for interview. Interviews were conducted on various dates commencing

23.11.2017 till 01.12.2017. The petitioner learnt about declaration of the result only on receipt of communication Annexure P/7 dated 10.11.2017 via email as well as post on 16.11.2017, whereupon, he made a representation to the Commission on 16.11.2017 itself explaining that he could not send the hardcopy of the online application form along with self attested copies of certificates/supporting documents to the Commission before 08.11.2017 on account of being unaware of the declaration of the result. The petitioner requested for permission to submit the requisite documents and for consideration of his candidature for recruitment for the post of Assistant Professor. However, representation dated 16.11.2017, moved by the petitioner, was rejected vide communication Annexure P/10 dated 22.11.2017 on the ground that the petitioners candidature had rightly been rejected on account of non-submission of hard copy of the online application form along with self attested copies of certificates/supporting documents within the stipulated period of time. Thereafter, on the basis of interviews conducted by the Commission, result of the selected candidates was declared vide Annexure P/11 on 01.12.2017 and the same was uploaded on the website of the Commission on 01.12.2017 besides was published in three English and two vernacular newspapers on 02.12.2017.

(3) Learned counsel contends that the inability to submit hard copy of the online application form along with self attested copies of certificates/ supporting documents as per requirement of condition No.1 of note appended to the result (Annexure P/6) was solely due to inadvertence and due to absence of knowledge of declaration of result and that in the circumstances, the claim of the petitioner who was a orthopedically handicapped candidate be considered sympathetically especially in view of four vacancies having remained unfilled.

(4) Learned counsel for respondent No.2 on the other hand contended that after declaration of the result, the vacant posts had been re-advertised and it was always open to the petitioner to apply against the same but that no case was made out for granting any relief in the facts and circumstances of the case especially in view of the petitioner having failed to submit hard copy of online application along with self attested copies of certificates/supporting documents. Learned counsel relied upon the decision of a Coordinate Bench of this Court in ***Rekha Jangra*** versus ***State of Haryana and others***¹ wherein in similar

¹ CWP No.1379 of 2017

circumstances, writ petition filed by a candidate who could not send hard copy of the online application along with self attested copies of certificates/ supporting documents on account of being unaware of declaration of result, was dismissed.

(5) I have considered the submissions of learned counsel for the parties.

(6) Admittedly the respondents declared the result of the recruitment test for the post of Assistant Professor (College Cadre) through a press note Annexure P/6 dated 23.10.2017. As per condition No.1 in the press note appended to result Annexure P/6 dated 23.10.2017, qualified candidates were required to send hard copy of their online application forms along with self attested copies of their certificates/supporting documents to the commission's office addressed to the Secretary, HPSC, Bays No.1-10, Block-B, Sector-4, Panchkula, Haryana, through registered post or by personal delivery at reception within 15 days from 23.10.2017 i.e. date of publication of the result (i.e. upto 08.11.2017 by 05:00 p.m.) otherwise, their candidature would not be considered for recruitment. In the circumstances, nothing more could be expected from the Commission. The respondents could not be required to go and inform each candidate individually about the declaration of the result, since the number of posts advertised were in large number and thousands of candidates would have applied for the same and appeared in the written test. In Rekha Jangra's case (supra), a Coordinate Bench of this Court was pleased to hold that 'it cannot be held as a principle of law that every candidate has to be informed individually about the result or about any further requirement. To hold so otherwise would be to put an unbearable burden upon the examining bodies. It also cannot be lost sight of that publication in newspaper is also a satisfactory mode of service of notice. In a similar case, Hon'ble the Delhi High court in *Union Public Service Commission and another* versus *Govt. of NCT of Delhi and other* in Writ Petition (Civil) No.10058/2009, decided on 25.01.2010 held as under:-

“25. With such a large number of DAFs having been received by the UPSC, it is impracticable to expect the UPSC to give a go by to the instructions that have categorically and specifically been mentioned in the advertisements issued by it. It is one thing to say that procedure is a handmaid of justice but it is another thing, in practical life, to give procedure a complete go by for the

sake of accommodating a few people. If this is done, then there would be no obligation on anybody to follow any procedure resulting in a completely unmanageable situation.

26. If the submission made by learned counsel for the Respondents is placed on a larger canvas (since the UPSC conducts dozens of such examinations annually), one can well imagine the resultant chaos. For example, it is well known that the UPSC receives lakhs of applications for the Central Civil Services Examination. If every such applicant submits an incomplete application, that is to say that the relevant information is not submitted along with the application, the processing time for the UPSC would take several months and would, in the long run, be completely counterproductive. Consequently, in our opinion while it is true that procedure is the handmaid of justice, it is not possible to ignore practical difficulties that may arise in a given case.

27. The present case is such a case where, because of a very large number of applications received by the UPSC, if it is compelled to accept procedurally incomplete applications, there would be serious practical difficulties that it would have to encounter and this may very well lead to a break down in the system. We also cannot overlook the fact that the applicants/Respondents are all highly educated persons claiming to have an LLB degree and three years experience at the Bar. Therefore, it must be assumed that they fully understood the contents of the advertisements and the DAF. There was a duty cast on them to correctly fill up the DAF and they cannot be allowed to contend that despite this, their application should be accepted even if it is incomplete only because procedure is the handmaid of justice.

28. The matter may be looked at from another point of view. The UPSC has rejected the candidature of 45 persons due to non-submission of the required documents and/or submission of documents in the wrong format. If any relief is granted to the Respondents before us, surely it would be appropriate to grant a similar relief to other similarly placed candidates, some of whom may not have approached the Tribunal for relief. If this exercise were to be undertaken,

perhaps the entire examination would require to be cancelled. In our opinion this is neither in the interest of the candidates who have qualified nor is it in the public interest to cancel the entire examination for the sake of accommodating a few persons, such as the respondents.

29. The facts of this case are singular and we are of the opinion that given the very large number of applications received and the number of candidates involved, we must give the benefit of the necessity of sticking to procedural requirements to the UPSC.”

(7) Similar view was taken by a Coordinate Bench of this Court in *CWP No.7229 of 2017 titled as Manoj Kumar versus State of Haryana and others and CWP 7553 of 2017 titled as Rinku and another* versus *State of Haryana and another*, decided on 24.04.2017.

(8) Similar view was taken by a Coordinate Bench of this Court in *CWP No.7229 of 2017 titled as Manoj Kumar versus State of Haryana and others and CWP 7553 of 2017 titled as Rinku and another* versus *State of Haryana and another*, decided on 24.04.2017.

Shubhreet Kaur