

PETITIONER:
CONSTABLE DAVINDER SINGH & ORS.

Vs.

RESPONDENT:
STATE OF HARYANA & ORS.

DATE OF JUDGMENT 15/12/1995

BENCH:
HANSARIA B.L. (J)
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HANSARIA B.L. (J)
RAMASWAMY, K.

CITATION:
1996 SCC (1) 612 JT 1995 (9) 173
1995 SCALE (7) 253

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

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.

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.

Shri P.P. Rao, learned senior counsel 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 properly treated, it had directed the Government to conduct the test afresh and he was, thereafter, selected. It is next contended that there was overwritings against the names of some appellants in the select list which would establish that some attempts were made to see that they are failed.

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 entries made in the respective columns.

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.

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 entries 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 objectively 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.

Further 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 or 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.

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