

CASE NO.:

Special Leave Petition (civil) 9895 of 2000

Special Leave Petition (civil) 10512 of 2000

PETITIONER:

Pratap Singh

RESPONDENT:

State of Haryana & Ors., Shri Bhajan Lal & Ors.

DATE OF JUDGMENT: 23/09/2002

BENCH:

DORAISWAMY RAJU & SHIVARAJ V. PATIL.

JUDGMENT:

J U D G M E N T

SHIVARAJ V. PATIL J.

In these petitions, orders passed by the Division Bench of the High Court dismissing the Letter Patent Appeals affirming the order passed by the learned Single Judge are under challenge. The petitioner filed writ petitions claiming them to have been filed in the public interest questioning the validity, legality and propriety of selection made by the Haryana Public Service Commission (HPSC) and appointments made pursuant to the selection by the State Government to the post of District Food and Supplies Controller relating to respondent no. 4 in S.L.P. No. 9895/2000 and respondents 4 to 9 in S.L.P. No. 10512/2000.

The learned Single Judge dismissed the writ petitions mainly on two grounds (1) the petitioner not being one of the contestants for the post of District Food and Supplies Controller and that the writ petition had been filed only to gain political advantage as he was Member of Legislative Assembly in 1967, hence he had no locus standi to file the writ petition; (2) the selected candidates were appointed to the post of District food and Supplies Controller in the year 1981 i.e. nearly 16 years prior to filing of the writ petitions. There was no stay of appointment of the selected candidates and they have been continuing in service and further they had earned two promotions in 1985 and 1989. If the petitioner was really aggrieved, he should have made representation to the Department that the selected candidates i.e. the respondents were not qualified for the post.

On appeal, the Division Bench although did not find any justification to condone the delay of 386 days, yet considered the appeals on merits. The Division Bench noticed that out of the 16 candidates, who were called for interview, the HPSC selected respondent no. 4 Achint Ram Godara, the petitioner himself was not one of the candidates for the post and none of the candidates who had not been selected, challenged his appointment; that during the pendency of

the writ petition, the respondent no. 4 had earned two promotions in the year 1985 and 1989 and even the review application filed by the writ petitioner before the learned Single Judge was also dismissed on 8.8.1997; respondents 4 to 9 in S.L.P No. 10512/2000 were similarly placed; the Division Bench did not find any good ground to differ with the findings recorded by the learned Single Judge and concurring with the reasons recorded by the learned Single Judge, Letter Patent Appeals also were dismissed. Aggrieved by the same, the petitioner is before this Court in these petitions.

Mr. P.P. Rao, learned senior counsel for the petitioner in S.L.P. no. 9895/2000 submitted that the High Court went wrong in holding that the petitioner had no locus standi to file the writ petition. He urged that the appointment secured on the basis of the forged and bogus certificate of experience ought to have been annulled particularly when the Director General, State Vigilance Bureau had found that the experience certificate produced by the respondent No. 4 was bogus; at any rate, the minimum that could have been done was to direct some authority at least to hold enquiry as to the bogus and forged certificates.

The learned counsel for the petitioner in S.L.P. No. 10512/2000 while adopting the submissions made by Shri P.P. Rao, reiterated the submissions made before the High Court.

In opposition, Mr. M.S. Ganesh, the learned senior counsel for respondent nos. 4, 8 and 9 in S.L.P. No. 10512/2000, Mr. A. Sharan, learned senior counsel for respondent no. 6 and the learned counsel representing other respondents made submissions supporting the impugned orders.

Mr. M.S. Ganesh, learned senior counsel submitted that on earlier occasion, a candidate whose claim for recruitment to the same post was overlooked for want of experience as Executive Officer had approached the High Court unsuccessfully. When the matter was brought to this Court in Mohinder Singh vs. State of Haryana & Ors. (1989 (3) SCC 93), this Court did not disturb the recruitment of the respondents who had been appointed pursuant to the selection. The learned senior counsel for the respondents also submitted that in the light of a statement made in the counter-affidavit filed on behalf of the State and the HPSC, no case is made out even to conduct any enquiry as to the alleged bogus certificates said to have been produced by the selected candidates.

In our view, at this length of time, it may be unnecessary to deal with the question of locus standi of the petitioner to maintain the petitions. We proceed to consider on the merits of the contentions raised. It is not in dispute that respondents who were selected to the post of District Food and Supplies Controller were appointed in the year 1981; they are continuing in service and they were given two promotions, one in 1985 and the other in 1989; there was no interim order issued by any court or authority restraining from making appointments of the selected

candidates or continuing them in service and giving promotions to them. The petitioner is not a person who is directly affected in any way. We are not saying this for the purpose of examining his locus standi. As already stated, we do not intend to go into that question in this case at this stage. When there was serious dispute between the parties as to whether the certificates were genuine or bogus or forged, the High Court exercising jurisdiction under Articles 226 and 227 could not have efficaciously decided such dispute. If the petitioner was serious about the allegations of forgery or fraud alleged to have been committed by respondent No. 4 in S.L.P. No. 9895/2000 and respondent Nos. 4 to 9 in S.L.P. No. 10512/2000, he could have pursued with the competent authorities including the State Government or he could have initiated action on criminal side by filing complaint. In case the competent authority/court had found the respondent no. 4 or other selected candidates guilty of the offences, further action could have been taken for removing them from service. That having not been done and taking note of the fact that the appointments were made as early as in 1981 i.e. 21 years back and that during this period, the respondents got two promotions, in our view, the High court was right and justified in not disturbing the selection and appointment of the respondents.

In the case of Moninder Singh vs. State of Haryana and Ors. (supra), this Court in para 11, referring to the selected candidates in the very same selection and appointments made thereto, has stated thus:-

"The selected candidates were, however, not impleaded as respondents in the writ petition and attempt to implead them at this stage is bound to prejudice him. They have now been in service for more than eight years and respondent 4 has even been holding a promotional post for some time. We do not think in such a situation there would be any justification to allow challenge to the recruitment of the respondents."

It appears in this very case also, it was brought to the notice of the Court that an enquiry was undertaken by the Government against some of the selected candidates on the allegation that forged / false certificates had been produced both in support of qualification / eligibility and that in the enquiry a prima facie case had been made out but this Court did not express any opinion about the same stating that it shall be for the State Government to deal with the question.

Our attention was drawn to the judgment of the High court in Criminal (Misc.) No. 3190-M/89 to which the State of Haryana was also a party. In that case, F.I.R. No. 125 dated 13.4.1989 under Sections 420, 467, 471, 466, 161, 120-B IPC lodged at P.S. City Hisar was sought to be quashed by two of the respondents namely Lila Dhar and Dharpal. The F.I.R. was lodged by Shri Satyapaul, Advocate, Fatehbagh in which almost all the allegations which are made against the respondent no. 4

in S.L.P. No. 9895/2000 and respondents 4 to 9 in S.L.P. No. 10512/2000 were made. The High Court by a detailed and considered order dated October 11, 1991, quashed the F.I.R. accepting the petitions filed by some of the respondents herein. It appears the said order was not challenged any further. Possibly, having regard to this situation and at this length of time the authorities did not pursue the matter any further as to holding of further enquiry or taking action pursuant to the report of the Vigilance Director General against the respondent no. 4 in S.L.P. No. 9895/2000 and respondents 4 to 9 in S.L.P. No. 10512/2000. A submission was also made on behalf of some respondents particularly respondents 5 and 6 in S.L.P. No. 10512/2000 that even no prima facie case was made out against them in the enquiry.

Thus, having regard to all aspects, we feel not inclined to exercise our jurisdiction under Article 136 of the Constitution of India to interfere with the impugned orders. Consequently, these Special Leave Petitions are dismissed. No costs.