

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 1418 of 2002

Date of Decision : February 11, 2015

Harjinder Pal Petitioner

Vs.

The State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Shireesh Gupta, Advocate
for the petitioner.

Mr. K. K. Gupta, Addl. A. G., Punjab.

* * *

DEEPAK SIBAL, J. :

Through the present writ petition, the petitioner seeks appointment as a Lecturer in Music (Vocal). The Punjab Public Service Commission, Patiala (hereinafter referred to as – the Commission) had refused to accept the application of the petitioner for the above post on the ground that the petitioner had not passed the National Education Test (NET) conducted by the University Grants Commission (UGC) before the last date

fixed for applying for the above post, as given in the advertisement.

The factual matrix of the matter, in brief, is that through advertisement dated 03.04.1999, the respondent Commission invited applications for filling up 272 posts of Lecturers (College Cadre). Included in these 272 posts, were four posts of Lecturers in Music (Vocal). Out of these four posts, two posts were for the General Category, one was reserved for Scheduled Castes and the remaining one post was reserved for category of Ex-serviceman. The last date for submission of the applications was 26.04.1999. One of the eligibility requirements was that the candidate should have qualified NET conducted by the UGC. At this stage, it may be noticed that the petitioner had appeared for the NET on 27.12.1998, but due to delay on the part of UGC, his results had not been declared even after the passage of over six months. On the declaration of the results of the NET on 16.07.1999, he was declared to have passed the test.

On 11.08.2001, the respondent Commission advertised for filling up 274 additional posts of Lecturers. This advertisement also included a corrigendum with regard to the earlier advertisement dated 03.04.1999. In the second advertisement dated 11.08.2001, there was no additional post of Lecturer in Music (Vocal). Though the advertisement dated 03.04.1999 had been issued long ago, but no post of Lecturer in Music (Vocal) had been filled up. Further, as per the corrigendum, all applicants, who had applied in pursuance to the earlier application, were not to apply again, but candidates who had become eligible, after the

corrigendum were permitted to apply now. The relevant portion of the corrigendum is reproduced below for ready reference :-

“The candidates who are eligible under this relaxation and have not applied earlier, can submit their applications now by 27-08-2001. Candidates who have already applied in response to the above advertisement need not apply again. Their previous applications will be considered. Other conditions will remain unchanged.”

The petitioner being fully eligible, applied for the post in question through an application, which was duly received on 21.08.2001.

The above application of the petitioner was not entertained only on the ground that he had passed his NET on 16.07.1999 i.e. after the last date of application of the first advertisement, which was 26.04.1999. It is this action on the part of the respondents that has been challenged by the petitioner through the present writ petition.

We have heard learned counsel for the parties and with their able assistance, have also gone through the record of the case.

On 23.01.2002, when this matter came up for hearing before this Court, this Court passed the following order :-

“C. M. allowed as prayed.

Notice of motion for 3.7.2002.

Meanwhile, respondent no. 2 will entertain the application already submitted by the petitioner and consider him along with the other candidates. This will be provisional and subject to the final orders that may be passed in the writ petition.

Copy of this order be given dasti on payment of requisite charges.”

As per the above order, the petitioner's application was considered, but the result has been kept in a sealed cover.

Today, an affidavit dated 11.02.2015 has been filed on behalf of the respondent – State of Punjab. In this affidavit, it has been submitted that the result of the petitioner has been kept in a sealed cover for the last about 13 years and that if this Court so orders, the Commission may declare the result of the petitioner. It has further been brought to our notice that till date, the post of Lecturer in Music (Vocal) in the Scheduled Caste category, to which the petitioner belongs, has not been filled up.

Irrespective of the above, the corrigendum dated 11.08.2001 was issued to the earlier advertisement dated 03.04.1999. Candidates, who would now become eligible, as per the corrigendum, were permitted to apply afresh.

In the integrum, the petitioner had passed his NET way back on 16.07.1999 and admittedly, even as on 11.08.2001, no selection and appointment to the post of Lecturer in Music (Vocal) had been made in the category of Scheduled Caste, to which the petitioner belonged. Further, the petitioner had appeared in the NET in December, 1998. On account of the delay on the part of the UGC to declare the result of the petitioner, his career cannot be prejudiced. Had the UGC not taken about seven months to declare the result and had declared the result in time, there would have been no occasion for the petitioner to knock the doors of this Court.

In view of the above, in the peculiar facts of the case in hand, the respondent Commission is directed to declare the results of the petitioner and in case, it is found that the petitioner has made the grade and the post in question is vacant, he be appointed to the post in question. It is further directed that on the principle of '*no work – no pay*', the petitioner will not be entitled to any monetary benefits for the period he has not discharged his duties. Further, he is granted liberty to make an application to the competent authority for grant of continuity in service in case he is appointed to the post in question.

Disposed of accordingly.

(SATISH KUMAR MITTAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

February 11, 2015

monika