

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 1865 of 2013

Date of Decision : December 01, 2015

Renu Gupta Petitioner

vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Jagdish Manchanda, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

* * *

DEEPAK SIBAL, J. :

Short reply on behalf of respondent no. 2, filed today in Court, is ordered to be taken on record. A copy thereof has been supplied to the counsel for the petitioner.

Through the present petition, the petitioner seeks consideration of her candidature for appointment as as Post Graduate Teacher (PGT), Mathematics.

On scrutiny of the record of the case and after hearing counsel for the parties, the relevant facts, which have been culled out by me, are that

through advertisement dated 07.06.2012, amongst others, posts of PGT Mathematics were advertised to be filled up. The relevant academic qualifications, as prescribed, were as under :-

*“M.A. Mathematics/M.Sc. Mathematics/
Applied Mathematics with Mathematics as one
of the subject at Graduation level with at least
50% marks and B.Ed. from recognized
university.”*

Through a corrigendum, the academic qualifications were amended as under :-

*“M.A./M.Sc. Math/Mathematics Statistics
with at least 50% marks from a recognized
University.”*

From the facts as noticed above, the academic qualifications so prescribed for the post in question, were M.A./M.Sc. Mathematics Statistics, as apposite to the qualifications possessed by the petitioner, which is M.Sc. Statistics. For having not possessed the prescribed academic qualification, the petitioner's candidature was rejected. It is such rejection, which is challenged by her through the present petition.

Whether the petitioner, who possessed the qualification of M.Sc. Statistics, is to be considered eligible for appointment as PGT Mathematics, is an issue, which is no longer *res integra* as the same has been decided against the petitioner by a Division Bench of this Court in

C. W. P. No. 10174 of 2013 – Kulbir Singh and others vs. State of

Haryana and others, decided on **09.10.2014** as under :-

“The Board of School Education Haryana has also presented its stand before this Court wherein it has been stated that M.Sc Statistics does not cover the entire syllabi of Mathematics and therefore, M.Sc Statistics cannot be equated with M.A. Mathematics/M.Sc Mathematics/Applied Mathematics.

From the above, it is clear that the experts in the field from their experience have given a firm opinion to the effect that M.Sc. Statistics cannot be considered equivalent to M.A. Mathematics/M.Sc Mathematics/M.Sc Applied Mathematics. That being the position, as per the settled position of law, we refrain ourselves from entering into this issue any further. According to us, this issue is better left to the experts. It is equally well settled that it is prerogative of the employer to prescribe the qualifications to a particular post depending upon the needs and requirements of that post. Further, in the case in hand, statutory Rules under Article 309 of the

Constitution of India have been framed by the State of Haryana prescribing qualifications for appointment to various posts including PGT Mathematics wherein the qualification of M.Sc Statistics is specifically excluded. We find nothing unreasonable or arbitrary in the same.

A similar issue, came up for consideration before this Court in **CWP No.6704 of 2011** titled as '**Narender Kumar and another versus Haryana Public Service Commission**', decided on 24.04.2012. The issue in that case was whether M.Sc Mathematics and M.Sc Applied Mathematics could be considered equivalent for appointment to the post of Lecturer in Maths in the School Cadre. After considering the facts of the case and the law on the subject it was held therein as under :-

“From the above judgments it is clear that **(i)** the employer has a prerogative to prescribe the qualification for a particular post or service which is either prescribed under the rules and if not depending upon the needs and requirement of the post the employer can

accordingly prescribe the same, if such a qualification has been prescribed and has been advertised the employer can insist upon strict adherence thereto. (ii) If the employer prescribes the essential qualification for appointment to a particular post and where it is not mentioned about the eligibility of the equivalent course to the prescribed qualifications either in the statutory rules or in the advertisement, absence of such a clause clearly indicates that the employer did not desire to appoint a person possessing equivalent qualification. (iii) A Court should not generally delve into determining as to whether a particular qualification is an exact equivalent to the one prescribed in the advertisement/statutory rules and leave the same to the employer to determine. (iv) Insistence on the advertisement, qualifications is also essential for the reason that if there is any deviation from the qualifications mentioned in the advertisement it would give rise to a grievance for all those who had some or even better qualifications than the appointee or appointees but who had not applied

for the post because they did not possess the qualifications mentioned in the advertisement. This would amount to a fraud on public as public posts are to be filled in accordance with Articles 14 and 16 of the Constitution of India and any violation thereof cannot be permitted by the Court nor can the Court be a party to such illegal process of appointment.

In the light of the above, challenge of the petitioners to the order of rejection of their candidature cannot be accepted.

Petitioners have placed on record documents, communications and extracts of book of equivalence of recognized examination of the Kurukshetra University, Kurukshetra, Guru Jambheshwar University, Hisar and Maharishi Dayanand University, Rohtak which do indicate that degree of M.Sc. (Applied Mathematics) possessed from Guru Jambheshwar University, Hisar is equivalent to M.Sc. (Mathematics) of Kurukshetra University, Kurukshetra and Maharishi Dayanand University, Rohtak. Reference has been made to already appointed Lecturers in

Mathematics who possess the degree of M.Sc. (Applied Mathematics) and by treating them to be eligible they were recommended by the Commission and appointed by the Department of Education. Communications do indicate that there has been acceptance in principle by the State of Haryana with regard to the equivalence of the degree of M.Sc. (Applied Mathematics) obtained from the Guru Jambheshwar University, Hisar to that of M.Sc. (Mathematics) obtained from Kurukshetra University, Kurukshetra and Maharishi Dayanand University, Rohtak. Since it has been held that the employer has a prerogative to prescribe the qualifications for a post and the Court should not delve into the issue of whether a particular qualification is an exact equivalent to the qualifications prescribed by the employer the said prerogative should therefore be left to the sole discretion of the employer.”

In view of the above, we find no merit in the present petition and the same is dismissed but with no order as to costs. [Emphasis supplied]”

A perusal of the above quoted judgment of the Division Bench clearly brings out that the candidates possessing the qualification of M.Sc./Statistics cannot be considered eligible for the post of PGT Mathematics. This view was pronounced after going through the stand of the Board of School Education, Haryana, which had expressed a definite opinion that course of M.Sc./Statistics does not cover the entire syllabi of Mathematics.

The case of the petitioner is fully covered against her by the afore-quoted judgment in **Kulbir Singh's** case (*supra*).

Resultantly, the writ petition being bereft of any merit is ordered to be dismissed.

No costs.

(DEEPAK SIBAL)
JUDGE

December 01, 2015
monika