

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.18215 of 2015(O&M)

Date of decision:20.10.2015

Archana Kumari

....Petitioner

VERSUS

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. Naveen S. Panwar, Advocate
for the petitioner.

HEMANT GUPTA, J.(Oral)

The challenge in the present writ petition is to the essential qualifications prescribed for Post Graduate Teacher (for short 'PGT') Computer Science wherein only M.Sc. Computer Science/Master in Computer Applications (for short 'MCA' through regular course are made eligible for consideration for appointment as prescribed in Appendix B of Haryana State Education School Cadre (Group-B) Service Rules, 2012 (for short 'the Rules').

The petitioner has obtained MCA or M.Sc. Computer Science through Distance Education Mode from Maharshi Dayanand University, Rohtak. Haryana Staff Selection Commission vide advertisement on 05.07.2015 invited applications for 446 posts of PGT Computer Science. Such post is governed by statutory Rules called 'The Haryana State Education School Cadre (Group-B) Service Rules, 2012'. Rule 9 of the Rules contemplates that PGT Computer Science are to be appointed by

direct recruitment on contract basis or by transfer or deputation of an official already in service of any State Government or Government of India. The relevant extract from the Rules, reads as under:-

- “2. In these rules, unless the context otherwise requires,-
- (a) xx xx xx

(f) "PGT" means Post Graduate Teacher in the relevant subject appointed after notification of these rules and shall include Lecturers appointed before notification of these rules;

xx xx xx

7. No person shall be appointed to any post in the Service, unless he is in possession of qualifications and experience specified in column 3 of Appendix B to these rules in the case of direct recruitment on contract basis and those specified in Column 4 of the aforesaid Appendix in the case of persons appointed other than by direct recruitment on contractual basis:

Provided that in case of on contractual basis direct recruitment, if the required number of candidates of Scheduled Caste, Backward Class, other backward classes, Ex-Servicemen and Physically Handicapped having not the required the experience are not available against the vacancies reserved for them, then relaxation in experience up to the limit of fifty percent may by order, for reason to be recorded in writing, given at the discretion of the recruiting agency.

xx xx xx

APPENDIX B
(see rule-7)

Serial Number	Designation of Posts	Academic qualifications and experience, if any, for direct recruitment on contract basis	Academic qualification and experience, if any, for appointment other than by direct recruitment on contract basis
(1)	(2)	(3)	(4)
1	xx	xx	xx
23.	PGT Computer Science	(i) M.Sc. Computer Science (Regular two year course) / MCA (Regular three year course) / BE/B.Tech. Computer Science / Computer Engg. / IT (Regular course) with 55% aggregate marks from a recognized university; (ii) Matric with Hindi / Sanskrit or 10+2 / B.A./ M.A. with Hindi as oneof the subject. (iii) Certificate of having qualified Haryana teachers	By Transfer or deputation:- (i) M.Sc. Computer Science (Regular two year course) / MCA (Regular three year course) / BE/ B.Tech. Computer Science / Computer Engg. / IT (Regular course) with 55% aggregate marks from a recognized university; (ii) 5 years teaching

		Eligibility Test (HTET) / School Teachers Eligibility Test (STET). (iv) Consistent good academic record.	experience as PGT computer science (iii) Matric with Hindi / Sanskrit or10+2/ B.A./ M.A. with Hindi as one of the subject. (iv) Certificate of having qualified Haryana Teacher Eligibility Test (HTET) / School Teachers Eligibility Test (STET)
xx	xx	xx	xx

The grievance of the petitioner is that the petitioner is qualified degree holder in M.Sc. Computer Science or MCA but she has obtained the degree from distance education mode. A degree obtained from distance education mode is at par with the degree obtained through regular mode i.e. by attending classes and cannot be differentiated only on the basis of medium of instructions i.e. by attending class-rooms or by distance education.

It is contended that duration of course; mode of examination and syllabus for obtaining degree in M.Sc. Computer Science or MCA is same. Therefore, the mode of acquiring such degree cannot be made basis of the process of appointment. It is pointed out that in respect of PGT Physics; Chemistry; Biology or other Science faculties, no distinction has been made between regular student or a student through distance education mode. Therefore, the distinction in the case of PGT Computer Science between regular course and through distance education mode is arbitrary and unreasonable.

Similar question has been examined by this Court in CWP No.19126 of 2015 titled Sunil Sharma and others v. State of Haryana and others, wherein the post-graduates in Computer Science have sought appointment for a PGT post in Computer Science. It has been held that

fixing of educational qualifications for the purposes of appointment in terms of Rules framed in exercise of the powers conferred under proviso to Article 309 of the Constitution is legislative in nature. The prescribing of the qualifications required for a post is a matter of experts to decide. It is for the employer to consider as to which qualifications are suitable for its purpose. The relevant extract from Sunil Sharma's case (case) reads as under:-

“In view of the above, we find that once the State Government has framed statutory Rules in exercise of the powers conferred under proviso to Article 309 of the Constitution, such Rules being legislative cannot be challenged except on account of violation of any other statute or the Constitution. The prescribing of the qualifications required for a post is a matter of experts to decide. Once the experts have fixed a particular qualification, the same cannot be made subject matter of judicial review. Thus, we find that prescribing a post-graduate in MCA or M.Sc. in Computer Science after undergoing regular course cannot be said to be illegal or arbitrary which may warrant interference in the writ jurisdiction of this Court.”

In view of the above, we find that prescribing a post-graduate in MCA or M.Sc. in Computer Science after undergoing regular course cannot be said to be illegal or arbitrary which may warrant interference in the writ jurisdiction of this Court.

Thus, the present writ petition is disposed of in the light of judgment of this Court in Sunil Sharma's case (supra).

(HEMANT GUPTA)
JUDGE

OCTOBER 20, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE