

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO.4089 of 2014

RESERVED ON: JANUARY 30, 2015

DATE OF DECISION: MARCH 13, 2015

Vishwajit SinghPetitioner

Versus

The State of Haryana and othersRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Chirag Kundu, Advocate for the petitioner.

Mr.DS Nalwa, Additional Advocate General, Haryana.

Mr.HN Mehtani, Advocate for the Commission.

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TEJINDER SINGH DHINDSA, J.

The petitioner assails the action of the respondent – Haryana Public Service Commission (hereinafter to be referred to as 'the Commission') in treating him as ineligible for the post of Assistant Professor (College Cadre) HES-II in the subject of Fine Arts.

2. Brief facts that may be noticed are that the Commission issued advertisement dated 24.1.2014 inviting applications for recruitment to 1396 temporary posts of Assistant Professors (College Cadre) HES-II in various subjects in the Higher Education Department, State of Haryana. Three posts were in relation to the subject of Fine Arts.

3. Clause 5 of the advertisement laid down the essential qualifications and the relevant part thereof was as under:

“5. Essential Qualifications:-

(II) Assistant Professors (all subjects except Computer Science, Fine Arts, Mass Communication & Music (Instrumental & Vocal)

(a) Good academic record with at least 55% of the marks or an equivalent grade of B in the 7 point scale with letter grades O, A, B, C, D, E and F at the Master's Degree level in the relevant subject from an Indian University or an equivalent degree from a Foreign University.

(b) Knowledge of Hindi/Sanskrit upto Matric standard.

(c) National Eligibility Test (NET)/State Level Eligibility Test (SLET) shall remain the minimum eligibility conditions for recruitments and appointments as Assistant Professors in Colleges. Provided further that NET/SLET shall not be required for such Master's Programmes in disciplines for which there is no NET/SLET.”

(II) ASSISTANT PROFESSORS in Computer Science

(a) Good academic record with at least 55% of the marks or an equivalent grade of B in the 7 point scale with letter grades O, A, B, C, D, E and F at the Master's Degree level in Computer Science from an Indian University or an equivalent degree from a Foreign University.

(b) Knowledge of Hindi/Sanskrit upto Matric standard.

(c) Besides fulfilling the above qualification candidates should have cleared the National Eligibility Test (NET) for lecturers conducted by the University Grants Commission, Council of

Scientific and Industrial Research or similar test accredited by the University Grants Commission.

(III) ASSISTANT PROFESSORS in Fine Arts

(a) Good academic record with at least 55% of the marks or an equivalent grade of B in the 7 point scale with letter grades O, A, B, C, D, E and F at the Master's Degree level in Fine Arts from an Indian University or an equivalent degree from a Foreign University.

(b) Knowledge of Hindi/Sanskrit upto Matric standard.

Note:- For the post of Lecturer in the faculty of Fine Arts, Five Year's Diploma from the recognized University or Institute will be treated as equivalent to the master's degree. In such a case for the purpose of determining good academic record the performance in Matric and equivalent examination and the yearly examinations taken during the Diploma course will be considered.

(IV) ASSISTANT PROFESSORS IN MASS COMMUNICATION

(a) Good academic record with at least 55% of the marks or an equivalent grade at Master's Degree level or an equivalent qualification from an Indian or Foreign University/recognized Institution in Communication/ Mass Communication/ journalism.

Desirable

(i) Ph.D. Degree in Communication/ Mass Communication/ Journalism from an Indian University or an equivalent degree from a Foreign University.

(ii) Two years full time teaching/research experience in any area of Mass Communication (Newspapers accredited with ABC, National News

Agencies, Radio or Television, Film Media, reputed advertising agencies, public relation officers of the Governments, public sector undertakings and established industrial and commercial houses).

(b) Knowledge of Hindi/Sanskrit upto Matric standard.

(V) ASSISTANT PROFESSORS in Music (Instrumental & Vocal)

(a) Good academic record with at least 55% of the marks or an equivalent grade of B in the 7 point scale with letter grades O, A, B, C, D, E and F at the Master's Degree level in the relevant subject from an Indian University or an equivalent degree from an Indian University/Foreign University.

(b) Knowledge of Hindi/Sanskrit upto Matric standard.

(c) Besides fulfilling the above qualification candidates should have cleared the National Eligibility Test (NET) for lecturers conducted by the University Grants Commission, Council of Scientific and Industrial Research or similar test accredited by the University Grants Commission.

Note I

a) NET/SLET shall remain the minimum eligibility condition for appointment as Assistant Professor in Colleges.

Provided further that NET/SLET shall not be required for such Master's Programmes in disciplines for which there is no NET/SLET.

b) Relaxation of 5% is granted from 55% to 50% of marks at Master's degree level for SC candidates of Haryana.

c) Relaxation of 5% is granted from 55% to 50% of marks to the Ph.D. Degree holders who

have passed their Master's degree in relevant subject prior to 19th Sept.1991.

d) Relaxation of 5% is granted from 55% to 50% of marks at Master's degree level in relevant subject to the Physically and visually Handicapped persons.

e) Relaxation of 5% is granted from 55% to 50% of marks at Master's degree level in relevant subject to the candidates who pass their Matric examination from rural schools of Haryana. For this purpose school which fall under the jurisdiction of Village Panchayats of Haryana shall be classified as rural schools.

Note: II xxxxxx

a) xxxx

b) xxxx

Relaxation:- xxxx

i) xxxx

ii) xxxx

iii) xxxx

Note- III xxxx

Note- IV xxxx

Note- V xxxx

4. It is not disputed that the petitioner qualified his Bachelor Degree in the year 2011 securing 60% marks and thereafter did his Masters in Fine Arts (two years course) in the year 2013 securing 77% marks from the College of Fine Arts, Sector 10, Chandigarh.

5. The petitioner having made an attempt to submit an online application for the post of Assistant Professor (College Cadre) HES-II in Fine Arts in response to the Advertisement dated 24.1.2014, the same has not been accepted for the reason that he has not qualified the National Eligibility Test (NET)/State Level

Eligibility Test (SLET).

6. The case set up on behalf of the petitioner is that under Clause 5 (I) of the Advertisement governing essential qualifications, the requirement of having passed NET/SLET was applicable to the posts of Assistant Professors in subjects other than Computer Science, Mass Communication, Music (Instrumental and Vocal) as also Fine Arts. It has been vehemently contended that an exception had been categorically carved out insofar as qualifying NET/SLET in certain subjects including that of Fine Arts. In furtherance of such submission, Clause 5(III) of the Advertisement which laid down qualifications for the posts of Assistant Professor in Fine Arts has also been adverted to, wherein there was no requirement of passing NET/SLET. In a nut-shell, argument raised is that the candidature of the petitioner for the post of Assistant Professor in Fine Arts had to be regulated strictly as per terms and conditions of the Advertisement and as such, the action of the respondent-Commission in not accepting his application on account of not passing NET/SLET cannot sustain as the same was not the mandate and requirement in the Advertisement dated 24.1.2014 in response to which he had applied for the post in question.

7. Having heard learned counsel for the parties at length, this Court is of the considered view that there is no merit in the submissions raised on behalf of the petitioner and the writ petition deserves dismissal.

8. There would be no dispute with the proposition that the candidature of the petitioner as regards the post of Assistant

Professor in the subject of Fine Arts would have to be considered strictly as per terms and conditions contained in the Advertisement dated 24.1.2014. That having been said, the Advertisement and, particularly, Clause 5 laying down essential qualifications for the post would have to be read as a whole. Clause 5 (I) to (V) stand qualified by Note-I(a) which lays down in unambiguous term that NET/SLET shall remain the minimum eligibility condition for appointment as Assistant Professor in Colleges. Note-I(a) does not carve out any distinction amongst Assistant Professors as regards the requirement of passing NET/SLET. Clearly, such requirement of passing NET/SLET would apply across the board and to all candidates applying for the post of Assistant Professor irrespective of the subject. The proviso to Note-I(a) further clarifies that NET/SLET would not be the requirement only for such Master's Programmes in disciplines for which there is no NET/SLET. It is the categoric and pleaded case on behalf the respondent-Commission in its reply that NET is available in the subject of Fine Arts and as many as 118 candidates who had cleared NET in the subject of Fine Arts had applied for the post of Assistant Professor (Fine Arts) in response to the Advertisement dated 24.1.2014. Such stand has not met with any rebuttal at the hands of the petitioner.

9. The claim of the petitioner as regards eligibility for the post of Assistant Professor (Fine Arts) proceeds on a fallacious premise of reading clause 5 (I) and (III) of the Advertisement in isolation and to thereby render Note-I (a) under Clause 5 to be redundant. Such a reading and construction of the relevant

clause of the Advertisement would not be permissible.

10. That apart, it is not even the case of the petitioner that any other candidate who had not qualified NET/SLET has been considered as eligible for appointment to the post of Assistant Professor in the subject of Fine Arts. As such, even the plea of discrimination is not available to the petitioner.

11. For the reasons recorded above, this Court finds that the action of the respondent-Commission in having treated the petitioner to be ineligible for the post of Assistant Professor in Fine Arts is strictly in terms of the eligibility conditions contained in the Advertisement dated 24.1.2014.

12. No merit. Writ petition is dismissed.

MARCH 13, 2015
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether referred to the Reporter? (Yes/No)