

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Letters Patent Appeal No. 441 of 2014 (O&M)

Date of Decision : February 26, 2015

Satinder Kaur Appellant

Vs.

State of Punjab and others Respondents

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Bhupinder Singh Thind, Advocate
for the appellant.

Ms. Munisha Gandhi, Addl. A. G., Punjab.

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DEEPAK SIBAL, J. :

Though the present intra-court appeal, filed under Clause X of the Letters Patent, the appellant challenges before us the judgment dated 20.05.2013 passed by a Single Judge of this Court dismissing the writ petition bearing **C. W. P. No. 9758 of 2011** filed by the appellant.

The appellant had approached this Court impugning the notifications dated 10.12.1997 (Annexure P-12) and 18.08.2008 (Annexure P-13), through which the Sports Gradation Certificate dated

15.04.1996 (Annexure P-6) issued in her favour was sought to be down-graded.

The undisputed facts, which have emerged from the record of the case and the arguments raised by both parties, are that through Gradation Certificate dated 15.04.1996 (Annexure P-6), the appellant was graded Category '**B**' in Sports. Vide notification dated 10.12.1997 (Annexure P-12), the criteria of gradation was changed and thereafter, through notification dated 18.08.2008 (Annexure P-13), the Government issued instructions that all the Gradation Certificates granted prior to 10.12.1997 also needed to be re-considered as per the later notification.

Through advertisement dated 23.09.2009, the Government of Punjab invited applications for appointment to several posts including the post of Science Mistress. In the advertisement, posts were reserved for persons belonging to the Sports Category. The appellant applied for consideration of her case under such category. After consideration of her case, as per the notifications referred to above, a letter was written to the appellant directing her to get herself graded as per the notifications prevalent on the date of the advertisement. On her refusal to do so, she was denied appointment.

In view of the above, the appellant approached this Court

for the prayers mentioned above. The learned Single Judge, after considering the entire matter, dismissed the writ petition, by holding as under :-

“It is by now a well settled preposition in law that the instructions/rules prevalent on the date of issuance of the advertisement or last date of receipt of the application as specified therein would determine the eligibility of a candidate. Petitioner admittedly possesses a certificate, which is issued to her on 15.4.1996. After the issuance of the said gradation certificate grading her 'B', fresh instructions, vide notification dated 10.12.1997 (Annexure-P-12), was issued by the respondents, laying down norms by which the certificates were to be graded under the sports category for reservation of seats for sportsmen/women and preferential treatment in services of the State

Government. According to this revised policy, it was clearly mentioned that position holders of the Punjab School teams/Kendriya Vidyalaya Schools and Navodaya Sanghthan Schools teams, who had participated in the School National Championships, these competitions will not be graded. This aspect was further clarified, vide notification dated 18.8.2008 (Annexure-P-13), wherein it was clearly stated that the certificates issued prior to the coming into force of the instructions dated 10.12.1997 or subsequent thereto had to be reassessed and re-validated according to the instructions issued by the Government dated 10.12.1997. These two notifications are prior to the issuance of the advertisement dated 23.9.2009 and, therefore, the sports gradation certificate as possessed by the petitioner had to be

re-assessed and revised as per the policy prevalent of the Government of Punjab. Petitioner having been called upon to get her sports gradation certificate revised, refused the same as is apparent from the letter addressed by the petitioner to the Chairman, Department Selection Committee-cum-Director Education Department (Elementary Education), Punjab dated 29.3.2011 (Annexure-P-15), the claim of the petitioner has rightly been rejected by the respondents as the gradation certificate possessed by the petitioner would be 'C', which is below the gradation certificate required for consideration for appointment to the post of Science Mistress.

Finding no merit in the present writ petition, the same stands dismissed.”

We have heard learned counsel for the parties and perused

the judgment under appeal, along with the records of the case.

The advertisement is dated 23.09.2009, in pursuance of which the appellant has applied. It is well settled that the rules, regulations and instructions, which are prevalent on the date of such advertisement, would govern all applications filed pursuant thereto. Admittedly, the instructions dated 10.12.1997 and 18.08.2008 were governing the field when the appellant applied for consideration of her case for the post of Science Mistress in the Sports Category. It is further admitted that the appellant refused to get herself graded for consideration under the Sports Category as per the prevalent notifications in spite of the fact that a specific letter was written to her for doing the needful. Thus, the application of the petitioner for consideration of her case under the Sports Category was incomplete as it was not accompanied by a Gradation Certificate, as required.

On a query being posed by us, the learned Additional Advocate General appearing for the State of Punjab informed us that all the posts in the Sports Category had since been filled up.

The only argument raised on behalf of the appellant was that once a Gradation Certificate had been awarded to her, the same could not have been retrospectively changed on issuance of subsequent notifications. This submission raised by learned counsel

for the appellant is required to be considered only to be rejected.

As observed above, the advertisement in question was issued in the year 2009 and the same would be governed by the prevalent instructions. For being considered under the Sports Category, admittedly, the appellant did not get herself graded. Her application was thus incomplete. The notifications dated 10.12.1997 and 18.08.2008 have not been applied retrospectively as they have been applied to the advertisement of a later date i.e. 23.09.2009.

In view of the above, finding no merit in this appeal, the same is dismissed.

(SATISH KUMAR MITTAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

February 26, 2015

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