

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1574 of 2003
Decided on : 13.07.2016

Suman Tara & others

... Petitioners

Versus

Panjab University & another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.H.S.Rakhra, Advocate, for the petitioners
(in CWP-8781 & 9753-2003).
Mr.Gurcharan Singh, Advocate, for the petitioners
(in CWP-4783-2003).
Mr.Nirmal Singh, Advocate, for the petitioners
(in CWP-6042-2003).

Mr.Ashish Rawal, Advocate, for the respondent-NCTE.

Mr.Rohit Samhotra, Advocate, for respondents No.1 & 2
(in CWP-4342-2003).

G.S. Sandhawalia, J. (Oral)

This judgment shall dispose of CWP-1574, 3770, 4342, 4783, 5809, 6042, 6707, 7401, 7974, 8781, 9753 & 9878, involving common questions of law and facts. However, to dictate order, facts have been taken from CWP-1574-2003 titled *Suman Tara & others Vs. Panjab University & another*.

Petitioners seek quashing of the condition of giving preference to the Teachers working in Secondary Schools, in the prospectus for the year 2002-03, issued by the Department of Correspondence Studies of the respondent-University, for admission to the B.Ed. Course of 2 years. Resultantly, prayer was made for provisional admission.

It is not disputed that out of the present bunch of 12 cases, provisional admission has been granted and interim orders had been

passed by the Division Bench on 07.03.2003, 23.05.2003, 04.07.2003, 14.10.2003, directing provisional admission and allowing the petitioners to pursue the studies.

The case of the petitioners is that they were working as Primary Teachers in Government High Schools, in UT Chandigarh and had an experience between 5 to 10 years. The clause of admission in the prospectus provided that 2 years teaching experience was necessary as regular Teachers in recognized schools and colleges and preference was to be given to Secondary School Teachers. This issue of preference has been challenged by the petitioners, who claim to have deposited the requisite fees of Rs.9300/- along with the application forms and had filed the petitions on the ground that when the result was declared, their names did not figure in the list of the successful candidates, on account of the preference which was given to teachers working in the Secondary Schools.

In the reply filed by the respondent-University, it has been held out that apart from the other qualifying conditions of having a Bachelors Degree with a minimum qualifying marks, the requirement of teaching experience as a regular teacher from recognized schools and colleges, was necessary. The list of admission was to be prepared on the basis of the length of service. Relevant clause, which is objectionable, reads as under:

“Two years teaching experience as full time regular teachers in recognised schools and colleges. For admission the list will be prepared on the basis of the

length of service, preference will be given to Secondary School Teachers. Employment Certificate i.e. proforma A-III is attached in the Prospectus.”

It is further averred that as per the guidelines issued by the apex statutory body-National Council for Teacher Education (for short, the 'NCTE') (the statutory body of the Government of India) for B.Ed. Programme, it prescribed the above eligibility condition. It is the case of the University that 2279 applications were received for the said course and recognition had only been granted for 500 students. A list of 616 candidates had been prepared on the basis of the length of service, giving preference to the Secondary School Teachers, as per norms and the first 500 candidates had been granted admission, provisionally and the rest of the candidates had been kept in the wait list. Reliance was placed upon the qualifications laid down by the NCTE.

The respondent-NCTE, through its Northern Regional Committee, was subsequently impleaded as respondent No.3, as per order dated 15.05.2003. In its reply, the plea taken was that the terms and conditions, as notified, were in the prospectus and the advertisement and thus, preference was given, as mentioned above. The petitioners had failed to challenge the criteria and when they have failed to get admission, they had chosen to challenge the criteria. The relevant clause laying down the norms and standards for B.Ed. (Open and Distance Learning System) as enumerated in the appendix, was reproduced. Clause 5, as per the reply, reads as under:

“5. Eligibility and Admission of Criteria

Teachers serving in a recognised school with a bachelor's degree and having atleast 2 years experience are eligible for admission to the course.

The University shall develop a suitable procedure for the selection of candidates. There shall be reservation of seats for SC/ST/OBC, handicapped, women etc. as per the rules of the concerned government.”

Accordingly, it has been averred that it was left to the concerned University to develop a suitable procedure for the selection of the candidates and in respect to giving preference to the Secondary School Teachers, it was averred that the same was within the competence of the University. The minimum qualification standard was to be provided by the NCTE and it was open to the University to develop the criteria for selection to maintain merit and quality.

From the above pleaded facts, it would be clear that as per the normal standards laid down by the NCTE for Open & Distant Learning System, the University was to develop a suitable procedure for selection of the candidates. The requirement was of 2 years' experience for the teachers serving in recognized school, with Bachelor's Degree, for the admission to the course. The apex body had never provided any such preference which was to be given to the Secondary School Teachers which had been done at the level of the University itself. Relevant clauses have been reproduced above. The petitioners, who are also teachers, serving in recognized schools, therefore, had a valid grouse that they were discriminated only on account of the fact that they were not

teachers of the Secondary Schools but of Primary Schools etc. and therefore, they, without any valid reason, were left out of the zone of consideration. They also had the requisite experience of more than 2 years and were teaching in Government High Schools and thus, the University's procedure for selection was apparently violative of Article 14 of the Constitution of India. It is not that any minimum qualification was provided by the NCTE, as per its regulations that preference had to be given to the Secondary School Teachers and therefore, in such circumstances, the action of the University to provide for the said criteria, is not justified. Nothing has been mentioned as why preference was being given to only teachers of Secondary Schools.

Resultantly, interim orders passed whereby the petitioners were given provisional admission in the correspondence course and allowed to pursue the course, are, hereby, confirmed. In case the petitioners have given the examination, they would be entitled for declaration of the result and the necessary benefits. It is, however, clarified that in case the petitioners who had not sat in the examinations, in pursuance of the interim orders, they would not be entitled for any benefit of declaration of results and in such case(s) the University would refund the admission fees of Rs.9300/- approximately, which had been received from that class of petitioners.

With the above observations, the present writ petitions stand disposed of.

JULY 13th, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE