

C.W.P No. 13743 of 2013

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 13743 of 2013

DATE OF DECISION: 25.07.2016

Varun Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes)**
2. **To be referred to reporters or not? (Yes)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mr. V.K. Shukla, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

DAYA CHAUDHARY, J.

The petitioner has approached this Court by way of filing the present Civil Writ Petition under Article 226 of the Constitution of India for issuance of an appropriate Writ declaring the action of the respondents in laying down different teaching/industrial experience for the same post in response to same advertisement dated 9.6.2013 being discriminatory and violative of Articles 14 and 16 of the Constitution of India. A further prayer has also been made to keep one post reserved for the petitioner during the pendency of the writ petition.

Briefly, the facts of the case are that respondent-Department issued a public notice/advertisement dated 9.6.2013 inviting applications

from eligible candidates for recruitment to 135 posts of Service Providing Trainers in different Sectors like Agriculture Mechanic Sector, Automobile Sector, Chemical Sector, Food Processing Sector, Fabrication Sector, Refrigeration and Air Conditioning Sector etc. The qualification for the posts of Service Providing Trainers in all the aforesaid Sectors was Bachelor's Degree in Engineering/Diploma of the relevant field. Along with the academic qualification, teaching/industrial experience of two years was required in case of Degree holders and four years in case of Diploma holders in Agriculture Mechanic Sector, Automobile Sector, Chemical Sector, Food Processing Sector, Textile Sector, Construction Sector, Electrical Sector and Information Technology Sector. However, in Fabrication Sector, Refrigeration and Air-Conditioning Sector, Production and Manufacturing Sector, the teaching experience of 3 years in case of Bachelor's degree in Engineering and 5 years in case of diploma was required. It was also the stipulation in the notice/advertisement that the post of Service Providing Trainers was to be initially on contract basis for three years at a consolidated salary of ₹ 30,113/- per month and the services were to be regularized subsequently as per Government policy on completion of three years service on contract basis.

The petitioner was possessing qualification of three years Polytechnic Diploma in Mechanical Engineering and was also working as Mechanical Instructor in YRS Polytechnic College, Moga since 14.8.2008. He was having teaching experience of 4 years, 10 months and 16 days in the field of Mechanical Engineering. The petitioner being qualified and eligible applied for the aforesaid posts but he was declared ineligible for competing on the ground that he was having less than five years teaching

experience being Diploma holder.

The present petition has been filed by the petitioner to consider his case as he was wrongly declared ineligible.

Learned counsel for the petitioner contends that as per advertisement different teaching/industrial experience was required for different categories of posts but there was no justification for giving different experience for the different post under the same advertisement. Learned counsel further contends that the petitioner has been deprived of his right to compete for the post of Service Providing Trainer having less than five years teaching experience in Mechanical Engineering Field, which is contrary to the provisions of Article 14 and 16 of the Constitution of India. Learned counsel also contends that action of the respondents in laying down different teaching/industrial experience for the same post having similar qualification is absolutely wrong, illegal and arbitrary.

Notice of motion was issued in the case on 2.7.2013 and the following order was passed:-

“The Department of Technical Education & Industrial Training, Punjab issued advertisement dated 9.6.2013 inviting applications for filling up 135 posts of Service Providing Trainers in the respondent-Department. Such 135 posts were to be filled up in different sectors namely Agriculture Sector, Mechanical Sector, Automobile Sector, Fabrication Sector etc.

Learned counsel for the petitioner would submit that the petitioner possesses the essential qualification prescribed i.e. Diploma in Mechanical Engineering. It is further submitted that the petitioner has an experience of 4 years and 10 months in the

relevant field.

The instant writ petition has been filed raising a grievance that even though, the post is the same i.e. of Service Providing Trainer and the essential qualification prescribed for the post for all the sectors is also the same i.e. either a Degree or Diploma in the concerned field and also carries identical pay scale, yet, an anomaly has been created inasmuch as for certain sectors a higher experience has been stipulated i.e. 2 years for a Degree Holder and 4 years for a Diploma Holder as opposed to the sector in which the petitioner has applied in which the requirement is 3 years experience for a Degree Holder and 5 years experience for a Diploma Holder.

Notice of motion, returnable for 2.9.2013.

In the meantime, the application of the petitioner, who has applied for the post, shall be considered and he shall be permitted to participate in the process of selection. His result shall not be declared without the leave of this Court. It is further made clear that such interim direction shall not vest any equitable right in favour of the petitioner.”

In view of the aforesaid order passed by this Court, the application submitted by the petitioner was considered and he was permitted to participate in the process of selection. It was further directed to not to declare the result without the leave of the Court and also that the interim direction shall not vest any equitable right in favour of the petitioner.

In pursuance of notice of motion, reply has been filed by

respondents No.1 and 2.

Learned State counsel strongly opposes the submissions made by learned counsel for the petitioner on the ground that the Director General of Employment and Training in Ministry of Labour, Government of India, New Delhi (DGE&T), which is the apex organization for development and coordination at National Level for programmes relating to Vocational Training has laid down certain guidelines containing qualifications and experience for appointment to the post of Service Providing Trainer. The petitioner was possessing Diploma in Mechanical Engineering but was not having 5 years experience, which was the requirement for the post. The qualifications and other requirements mentioned in the advertisement were based on the guidelines issued by DGE&T, New Delhi. Learned State counsel also submits that in compliance of orders passed by this Court on 2.7.2013, the petitioner was allowed to participate in the selection process and his certificates/documents were checked. Though the petitioner was considered in the Textile Sector but he was not found meritorious in that sector.

Heard the arguments advanced by learned counsel for the parties and have perused other documents available on the file including qualification and experience of the petitioner.

Admittedly, total 135 posts of Service Providing Trainers in different sectors in the Department of Technical Education and Industrial Training were advertised. The petitioner applied for the post of Service Providing Trainer in 4 Sectors i.e. Fabrication Sector, Refrigeration Sector, Production & Manufacturing Sector and Textile Sector. The petitioner was possessing the required qualification but he was having Diploma in

Mechanical Engineering with experience of 4 years and 10 months, whereas, the requirement was of five years experience. As per directions given by this Court at the time of issuance of notice of motion, the petitioner was allowed to participate in the selection process and his documents were also checked. Though the petitioner was eligible for being considered in the Textile Sector, but he was not found meritorious in this Sector as the total number of candidates short-listed were three times of the total number of posts. The petitioner was called for scrutiny of certificates/documents in Fabrication Sector as per orders passed by this Court and one post was also kept reserved but he was not having requisite experience of five years as per requirement for recruitment to the posts in Fabrication Sector. In Production and Manufacturing Sector, the petitioner was not found in merit and did not fall in the list of short-listed candidates. In the Refrigeration Sector, the petitioner was found lower in merit as compared to the last selected candidate. The original result of the short-listed candidates has been produced in the Court in sealed cover, which has been perused. Not only the petitioner was having less experience but he did not come in the list of short-listed candidates. The argument of learned counsel for the petitioner that there cannot be difference in experience in case many posts were advertised in one advertisement, has no force as the experience was required as per guidelines issued by Director General of Employment and Training in Ministry of Labour, Government of India, New Delhi. Moreover, the petitioner was not in the merit list prepared by the Selection Committee inspite of the fact that he was not eligible but allowed to participate as per directions issued by this Court.

In view of the facts as mentioned above, there is no merit in the

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contentions raised by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

July 25, 2016
pooja

(DAYA CHAUDHARY)
JUDGE