

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

**CWP No.20061 of 2011
Date of decision: 08.12.2016**

Geeta Rani and others

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Ashok Sharma Nabhewala, Advocate
for the petitioners.

Mr. L.S. Virk, Addl. AG, Punjab
for the respondents.

Daya Chaudhary, J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to consider the candidatures of the petitioners to the posts of Vocational Mistresses (Garment Making and Knitting) in pursuance of advertisement dated 23.09.2009.

Briefly, the facts of the case as made out in the present writ petition are that respondents issued advertisement for filling up 2106 posts of Vocational Masters and Mistresses to the various categories such as garment making, knitting, weaving and other categories, which was published in daily newspaper 'Ajit' dated 23.09.2009. Petitioner No.1 applied in category of knitting whereas petitioners No.2 to 4 applied in the category of garment making. Petitioner No.1 belongs to Backward Class whereas petitioner No.2 belongs to SC Category. Thereafter, the merit list

was prepared by the respondents categorywise, which was also displayed on the website. Petitioner No.1 was shown at Sr. No.16 in the category of Vocational Mistress Knitting whereas petitioners No.2 and 3 were at Sr. No.23 and 28 in the category of Vocational Mistress Garment Making. Thereafter, a public notice was published in the daily newspaper 'Punjab Kesari' mentioning that the candidates, who had applied in pursuance of advertisement dated 23.09.2009 for filling up of the vacant posts of 7654 teachers and had passed three years diploma from the Punjab State Board of Technical Education and are having three years experience from Government or any recognized institution and those who could not earlier appear in the counselling for any reason, they may appear for counselling on 29.09.2011. The petitioners appeared before the Departmental Selection Committee but they were not allowed to appear in the counselling. Nothing was conveyed in writing and orally, it was informed that their three years diploma was from Industrial Training Institute and they could not be considered for the post of Vocational Mistress. Petitioner No.1 made written representation stating therein that they are having three years diploma from ITI issued by the Punjab State Board of Technical Education still their case was not considered.

The petitioners have approached this Court by way of filing the present writ petition to challenge the action of respondents.

Learned counsel for the petitioners submits that the non-consideration of the petitioners candidature for the post of Vocational Mistress is illegal and unlawful whereas they were having three years diploma from Industrial Training Institute issued by the Punjab State Board

of Technical Education. The petitioners fulfilled the qualification and accordingly, they were called for counselling but the action of respondents in rejecting the claim of the petitioners is contrary to the terms and conditions of the advertisement and also violative of principles of natural justice. Learned counsel also submits that this action is not only contrary to public notice and advertisement but is arbitrary as well. The documents of the petitioners were checked/verified by the respondents and they were considered to be eligible as their names also figured in the merit list prepared by the respondents.

In response to notice of motion, reply has been filed, which is on record.

Learned State counsel submits that petitioner No.1 has not passed three years diploma neither in the trade of Garment Making nor in the trade of Knitting and her experience certificate was not counter signed by the competent authority, which was required as per advertisement. Learned State counsel further submits that the petitioner is trying to mislead this Court as she is having three different diplomas in different streams whereas only three years diploma is required and she is not eligible for both the posts. Learned State counsel also submits that petitioners No.2, 3 and 4 had applied for the post of Garment Making in pursuance of advertisement dated 23.09.2009. Petitioner No.2 is having two years diploma and petitioner Nos.3 and 4 are also having the similar qualification. They were not considered as they were not having the requisite three years diploma in the trade of Garment Making. The petitioners were declared not eligible by the Departmental Selection Committee as they did not possess the requisite

qualification as well as experience for the post in question.

Heard arguments of learned counsel for the petitioners as well as learned State counsel and have also perused the documents available on the file.

The facts relating to issuance of advertisement dated 23.09.2009 and merit list dated 07.12.2010 are not disputed. It is also not disputed that a public notice was issued on 14.09.2011 in the daily newspaper wherein it was mentioned that candidates, who had applied in pursuance of advertisement dated 23.09.2009 and had passed three years diploma from Punjab State Board of Technical Education and are having three years experience from Govt. or other recognized institution and could not appear earlier for counselling for any reason, may appear before respondent No.2 on 29.09.2011. The qualification for the post of Vocational Masters/Mistresses as specified in the advertisement dated 23.09.2009 is reproduced as under: -

“xxx

xxx

xxx

vi) Vocational Master – Knitting

Qualification – 3 years diploma in the concerned category from State Board of Technical Education with 3 years teaching or practical experience from Govt. or Govt. recognized or any reputed registered organization issued under the signatures of competent Authority.

Vii) Vocation Master – Garment Making

Qualification – 3 years diploma in the concerned category from State Board of Technical Education with 3 years teaching or practical

experience from Govt. or Govt. recognized or any reputed registered organization issued under the signatures of competent Authority.”

Against column of experience, it was mentioned that experience for teaching post will be considered only from Govt., Govt. Aided, Recognized and Affiliated Schools. It was also mentioned that experience certificate must be counter signed by the District Education Officer (Secondary).

The petitioners applied for the post by considering themselves as eligible. However, they were not allowed to appear in the counselling due to certain objections raised by the Selection Committee that petitioner No.1 applied for the post of Vocational Mistress in the trade of Knitting in the category of Backward Class whereas petitioners No.2 to 4 applied for the post of Vocational Mistress in the trade of Garment Making in pursuance of advertisement dated 23.09.2009, however, they neither possessed the requisite qualification nor were having the experience for the posts in question.

Admittedly, petitioner No.1 had passed one year diploma in cutting, tailoring; one year diploma in embroidery and needle work and one year diploma in teaching training from Punjab State Board of Technical Education and Industrial Training. She has also annexed the detailed mark sheets of said courses. As per requirement of advertisement, one should have passed three years diploma but petitioner No.1 has not passed three years diploma neither in the trade of Garment Making nor in the trade of Knitting. Moreover, her experience certificate was not even counter signed

by the competent authority.

Similarly, petitioners No.2 to 4 applied for the post of Vocational Mistress in the trade of Garment Making in pursuance of advertisement dated 23.09.2009. A perusal of document (Annexure P-3) shows that petitioner No.2 has passed two years diploma from ITI and one year from CTI. Petitioners No.3 and 4 have also passed the same qualification, meaning thereby, petitioners No.2 to 4 have not passed requisite three years diploma, which shows that they were not possessing the requisite qualification as well as the experience for the post against which, they applied and hence they were declared not eligible by the Departmental Selection Committee.

Moreover, it is also clear from the advertisement that these appointments were initially for a period of one year on contract basis against consolidated salary. The offer of appointment was to be extended for next year, keeping in view the work and conduct of the candidate. The candidates were to be considered for regular appointment in case, their work and conduct was found satisfactory for a period of 3½ years.

On perusal of written statement filed by the respondents, it is clear that only petitioner No.2 attended the counselling and others were not found to be eligible. All the candidates had to apply online and no document was required at the time of making application. Only at the time of scrutiny of original documents, the petitioners were not found eligible and as such, they were not considered as they were not possessing the requisite qualification as well as experience.

It is a settled position of law that the employer has the absolute

right to lay down the qualifications for the post advertised and it is for the Selection Committee to ascertain as to whether a particular candidate has the requisite qualifications or not. No doubt the decision of the Selection Committee is subject to judicial scrutiny.

After hearing arguments and on perusal of documents available on record, it is apparent that the petitioners were not having requisite qualification as well as the experience as mentioned in the advertisement and they were not considered. The rule making authority is the best judge of the needs of a particular job and is well equipped to prescribe the requisite qualifications. The Courts do not have to prescribe the requisite qualifications for the post.

In the present case, not only the requisite qualification but experience was also specified in the advertisement . The petitioners were neither having the requisite qualification nor the experience. Although they applied in response to advertisement but they did not fulfill the qualification for the post and hence, could not be considered for selection. The action of the respondents cannot be held malafide or arbitrary in any manner.

Resultantly, there is no merit in the arguments raised by learned counsel for the petitioners and the petition being devoid of any merit is hereby dismissed.

08.12.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No