

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

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**CWP No.11461 of 2015 (O&M)**

**Date of Decision: 30.03.2016**

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Hemant Kumar & Anr.

... Petitioners

VS.

CAT & Ors.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SURYA KANT**

**HON'BLE MR.JUSTICE P.B. BAJANTHRI**

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Present: Mr. Suvir Sehgal, Advocate and  
Mr. Daman Dhir, Advocate for the petitioners

Mr. Rajesh Garg, Senior Advocate with  
Ms. Nimrata Shergill, Advocate for PGI

Mr. SB Kaushik, Advocate for respondent No.4

Mr. Piyush Khana, Advocate for respondent No.5

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**SURYA KANT, J. (Oral)**

(1) The petitioners are aggrieved by the prescription of qualification for the post of Clinical Instructor as contained in the statutory Recruitment Rules formulated by the PGIMER Chandigarh. The petitioners though challenged the advertisement before the Tribunal but did not assail the Recruitment Rules whereunder the advertised qualification is expressly prescribed. The Tribunal has vide order dated 28.04.2015 dismissed their Original Application primarily on this count.

(2) In the instant writ petition, the petitioners have become wiser, for besides impugning the order passed by the Tribunal, they have also assailed the Recruitment Rules.

(3) Since the petitioners did not challenge the Recruitment Rules before the Tribunal, no legal infirmity can be found with the impugned order passed by the Tribunal.

(4) Faced with this, learned counsel for the petitioners seeks and is granted liberty to file a fresh Original Application before the Tribunal for challenging the offending provision of the Recruitment Rules.

(5) As the Tribunal has dismissed the Original Application for the reason that the Recruitment Rules were not under challenge, we dispose of this writ petition with liberty to the petitioners to file a fresh Original Application before the Tribunal laying challenge to the Recruitment Rules in accordance with law and the order dated 28.04.2015 dismissing OA No.060/00800/2014 shall cause no legal impediment in this regard.

(6) However, the liberty as granted above shall not be construed as an expression of opinion on the legality or merits of the petitioners' claim or the Recruitment Rules.

(7) Ordered accordingly.

**(Surya Kant)**  
**Judge**

**30.03.2016**  
*vishal shonkar*

**(P.B. Bajanthri)**  
**Judge**