

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

CWP No. 13606 of 2014
Date of Decision:- 14.12.2016

Dharam Pal

..... Petitioner

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Ms.Akanksha, Advocate, for
Mr.Amar Vivek, Advocate,
for the petitioner.

Mr.Anant Kataria, DAG, Punjab.

Mr.K.K. Garg, Advocate,
for respondent No.3.

RAKESH KUMAR JAIN, J.

The petitioner has filed this writ in the nature of quo-warranto for removal of respondent No.3 from the post of Lecturer in Biology-cum-Principal of Government Senior Secondary School for Boys on the ground that she does not possess the requisite qualification.

The petitioner has averred that his son is studying in medical stream in the Government Senior Secondary School for Boys, Goniana Mandi, District Bathinda in which respondent No.3 is presently posted. The precise case of the petitioner is that respondent No.3 possesses the qualification of M.Sc. Human Biology whereas the requisite qualification to hold the post is M.Sc. Biology. According to him, during the year 2008, he

M.Sc. Human Biology was not eligible for the post of Lecturer in Biology whereas vide order dated 20.3.2014, the respondents have informed the petitioner that respondent No.3 cannot be reverted as she fulfills the requisite qualification. The petitioner has thus sought the quashing of the order dated 20.3.2014. According to the respondents, the eligibility for the post of Lecturer in Biology as provided Appendix ‘B’ of the Punjab State Education Class-III (School Cadre) Service Rules, 1978 as amended in 1995 [for short ‘the 1978 Rules’] was only M.Sc. The relevant provision provided in Appendix ‘B’ is reproduced as under: -

Appendix ‘B’

<i>Sr. No.</i>	<i>Designation of Posts</i>	<i>Minimum qualifications and teaching experience</i>	<i>Method of recruitment</i>	
			<i>Director appointment</i>	<i>Promotion</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>1</i>	<i>Xxxx</i>	<i>Xxxx</i>	<i>Xxxx</i>	<i>Xxxx</i>
<i>2</i>	<i>(i) Lecturer for General Education</i>	<i>M.A. or M.Sc. or M.Com with B.T. or B.Ed.</i>	<i>Twenty Five percent</i>	<i>Seventy Five percent from amongst the Masters and Mistresses</i>

Accordingly, the persons with the qualification of M.Sc. Human Biology were also considered eligible for the post of Lecturer in Biology. Respondent No.3 was also promoted as Lecturer Biology on the basis of her qualification of M.Sc. Human Biology w.e.f. 11.03.1993 vide order dated 17.02.1993 but during the promotions ordered on 30.05.2008 the persons, who possessed the qualifications like M.Sc. Statistics (in case of Lecturer Maths), M.Sc. Industrial Chemistry/Applied Chemistry (in case of Lecturer Chemistry) and M.Sc. Biotechnology/Human Biology (in case of

Lecturer Biology) were not considered for the post of Lecturer in their respective subjects. Such persons approached this Court by way of CWP No.14636 of 2008 titled as “*Manju Kalia Vs. State of Punjab*”, which was decided on 30.03.2010, in which the following order was passed by this Court: -

- “(1). The petitioner is working as a Science Mistress in the Education Department, Government of Punjab. She seeks a mandamus to direct the official respondents to consider her claim for promotion to the post of Lecturer in Mathematics.*
- (2). It appears that the petitioner’s claim has not been considered for the reason that she possesses the academic qualification of M.Sc. Statistics instead of M.Sc. Mathematics.*
- (3). The question that arises for consideration is as to whether or not the qualification of M.Sc. Statistics is equivalent to or can be treated at par with M.Sc. Mathematics for the purposes of promotion to the post of Lecturer in Mathematics? It appears that the Universities and State Governments are treating both the qualifications at par. Be that as it may, the aforesaid question falls within the domain of the subject experts.*
- (4). Consequently, the writ petition is disposed of with a direction to the Principal Secretary to the*

Government of Punjab, Department of Education to constitute an Experts Committee comprising at least three Subject Experts, if already not constituted, and obtain its opinion on the above-mentioned issue and take appropriate decision with regard to the equivalence of the qualification within a period of two months from the date of receipt of a certified copy of this order.

- (5). *Suffice it to say that if the Experts Committee recommends that the Teacher/Master(s) having qualification of M.Sc. Statistics can be considered eligible for promotion to the posts of Lecturer in Mathematics, the claim of the petitioner for his promotion shall also be considered forthwith but not later than two months thereafter. It is made clear that if the Department has already constituted an Expert Committee and the said Committee has given its opinion, the competent authority may take its final decision based thereupon and implement the same forthwith.*
- (6). *Ordered accordingly.*
- (7). *Dasti."*

In compliance of the aforesaid order, opinion of the subject experts of the University were sought on various subjects for the purpose of equation and as per the opinion of the subject experts, the persons, who possess the qualification of M.Sc. Human Biology were also eligible for the

post of Lecturer in Biology. The opinion of the subject experts is appended as Annexure P-5 with the petition and is reproduced as under: -

“A meeting of the Nominees/subject Experts of Biology of Punjab University, Patiala and Guru Nanak Dev University was held in the office room of Director, Public Instructions (Colleges) Punjab under his Chairmanship to decide upon the equivalency of allied subjects of Biology with Biology and to decide about the required qualification for the post of Lecturer Biology in the Schools of Punjab, as per orders of Hon’ble Secretary, Education Department Punjab, 12.01.2012 at 12.15 PM. Following members were present in the meeting:

- 1. Mr.Jasvinder Singh, DPI(C), Chairman.*
- 2. Dr. Ramandeep Kaur, Senior Lecturer, Department of Biotechnology, GNDU, Amritsar.*
- 3. Dr. R.S. Singh Professor & Head Department of Biotechnology, Punjab University, Patiala.*
- 4. Ms.Surjit Kaur, Deputy Director (Vocational), O/o DPI(S), Punjab.*

The subject experts of the universities have recommended the following qualifications required for the post of Lecturer in Biology in the schools of Punjab:

- 1. B.Sc. Medical/Biotechnology with Botany and Zoology as subjects.*
- 2. M.Sc. in Botany/Zoology/Human Biology/Biotechnology/Microbiology/Genetics/Agricultural Botany/Industrial*

*Microbiology/Microbial and Food
Technology.*

(Mr.Jasvinder Singh) (Dr. Ramandeep Kaur)

(Dr. R.S. Singh) (Ms.Surjit Kaur)”

Learned counsel for the petitioner has submitted that the opinion of the experts committee would not operate retrospectively, therefore, when respondent No.3 was appointed, she was not possessing requisite qualification.

On the other hand, learned counsel for the respondents has submitted that the appointment of respondent No.3 was on the basis of the 1978 Rules in which the minimum qualification for the post of Lecturer in Biology was M.Sc. and since at the time of promotion, it was found that the ancillary qualification was not sufficient, therefore, those Lecturers had approached this Court by way of CWP No.14636 of 2008 and pursuant to the order passed therein on 30.03.2010, a meeting of the nominees/subject experts was held in which it was held that for the purpose of Lecturer in Biology in the schools of Punjab, M.Sc. Human Biology would also be equivalent.

Thus, in the considered opinion of this Court, it is not a case where the declaration made by the subject experts committee is being applied retrospectively. Consequently, I do not find any merit in this petition and the same is hereby dismissed.

14.12.2016

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No