

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

Civil Writ Petition No.17939 of 2013 (O&M)

Date of decision: 8.2.2016

Sandeep Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.R.K.Arora, Advocate,
for the petitioner.

Mr.Harkesh Manuja, Addl., AG., Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The only reason for rejecting the candidature of the petitioner in the recruitment process for filling up vacancies of Vocational Masters [Electronic] in School Education Department, Punjab is that the petitioner failed to produce domicile certificate at the time of scrutiny during the process of counselling.

Mr.Arora submits that a domicile certificate was produced on 9.12.2010 after it was called by the Scrutiny Committee. Therefore, the domicile certificate will relate back to achieve its purpose.

The further submission is that the matter is concluded by the Full Bench decision of this Court in **Abhishek Rishi v. State of Punjab and others**; 2013 (3) RCR (Civil) 239.

Mr.Arora further submits that the domicile certificate was not required under the advertisement and when produced would come within the doctrine of relation back as broadly explained by the Supreme Court in **Charles K. Skaria and others v. Dr.C.Mathew and others**; AIR 1980 SC 1230 : (1980) 2 SCC 752.

As a result, the reason assigned in the impugned order dated 27.8.2013 [P-21] is erroneous. It is well settled that if the operating reason in an administrative order is faulted by the Court, the entire order has to go. On merits, Mr.Arora submits that the petitioner has secured 64.9714 marks whereas marks of the last candidate selected and appointed is 55.943 marks. Of the 78 posts advertised, only 53 remained unfilled as admitted in para. 8 of the written statement.

In view of the above, the writ petition is allowed. A writ of certiorari is issued quashing the impugned order dated 27.8.2013 [P-21]. The petitioner is declared eligible for the post. A mandamus is issued to the respondents to consider appointing the petitioner as per merit determined by the Departmental Selection Committee. On appointment, the petitioner would take her seniority from the date her batch mates were appointed. There will be notional fixation of increments etc. but the monetary benefits would accrue from the date of filing of the petition. In case of appointment, it will be subject to completion of formalities including character verification and medical. Let the entire exercise be carried out within six weeks from the date of receipt of a certified copy of this order.

(RAJIV NARAIN RAINA)
JUDGE

February 8, 2016