

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

**CWP No.5918 of 2012
Decided on : 09.02.2016**

Balraj Singh and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. V.K. Sandhir, Advocate for the petitioners.

Mr. L.S. Virk, Addl. AG, Punjab.

G.S. Sandhawalia , J. (Oral)

Petitioners seek setting aside of the public notice dated 19.11.2011 (Annexure P-5) on the ground that it is not in compliance of the order passed by this Court in ***CWP No.7895 of 2008*** titled as ***'Rajwinder Singh & Others Vs. State of Punjab and others' dated 03.05.2010*** (Annexure P-4). Prayer has also been made that fresh candidates may be allowed to apply for the unfilled posts in the General Category of Sports Quota and the action of the respondents in rejecting their claim without inviting fresh applications is without any basis.

The initial advertisement in question is dated 05.09.2007 (Annexure P-3), wherein posts of teaching fellows were invited and applications were called for. The cut-off-date as per the said advertisement was 30.09.2007. The candidates who fulfilled the requisite academic as well as professional qualification were to be considered. The petitioners, thus, are candidates

applying against the reserved seats of sports quota on the strength of their certificates issued by the Director of Sports and their educational qualifications.

As per Clause-5 of the said advertisement only A grade and B grade certificate holders were to be considered. The relevant clause reads as under:-

“5. Candidate seeking reservation under Sports Quota shall have to produce a certificate that they belong to the State of Punjab. They shall also be required to produce a certificate indicating that they have won 1st, 2nd and 3rd position in the team or individual events in the State Level Championship in any of the disciplines affiliated to Punjab Olympic Association organized by the State Level Federation. In case of reputed Non-Olympic disciplines such as Cricket and Tennis, a winner should have attained any of the First three positions in a State Level Association affiliated to the concerned National Federation. The sports certificate duly graded by the Director of Sports, Punjab, shall be a pre-requisite in the case of candidates who applied under sports quota category. Only A grade and B grade Certificate holder will be considered.”

As per Clause-11 of the said advertisement, the Educational Qualification and Professional for the posts applied were to be passed before the last date of submitting the application i.e. 30.09.2007. The Clause-11 reads as under:-

“11. The candidate must possess prescribed Educational Qualification and Professional for the post applied for on or before the last date of submitting the application.”

On account of the sports seats not being filled up, the

writ petition ***Rajwinder Singh's case (supra)*** came to be filed before this Court and a direction was issued that the seats were going vacant for want of sufficient candidates as only candidates possessing A grade and B grade certificates were being considered. Accordingly by holding that it was a matter of policy decision, the writ petition was allowed and a direction was issued that fresh applications be called for in response to the original advertisement alongwith the other eligible candidates by relaxing the condition of the requirement of A and B Grade certificate. The relevant observations read as under:-

*“(3). The writ petition is, accordingly, allowed to the extent that the respondents shall invite fresh applications for the posts reserved for Sports-persons by relaxing the condition of requirement of ‘A’ or ‘B’ gradation. It is further directed **that the petitioners or other Sportspersons, who have already applied in response to the original advertisement, shall also be considered along with other eligible candidates** and the process of recruitment shall be concluded within a period of six months from the date of receipt of a certified copy of this order.*

In compliance of the said order, notice dated 19.11.2011 (Annexure P-5) was issued by the Departmental Selection Committee, wherein for District Mansa with which in the present case, the petitioners are concerned, 5 vacancies were notified, both under General and Reserved Category. The notice specifically mentioned that this was in continuation of the earlier

notice dated 05.09.2007 and the vacancies and conditions of the filling the vacancies were to be the same. The residents of Punjab State having certificate C and D category were to be considered.

The relevant portion of the said notice reads as under:-

*“This notice is published in continuity to the notice published on 05.09.2007. The conditions for filling these vacancies shall be same as given in the notice dated 05.09.2007, the Performa would be same. The residents of Punjab State only with sports gradation certificate of C and D category would only be considered. **Those candidates have applied earlier, need not to apply.** But they would contact the concerned Chairman with the documents submitted with the earlier application, upto 30.12.2011. The application for the candidates applying shall reach the above mentioned address on or before 30.11.2011 upto 5.00 p.m. through registered post. No application shall be accepted Dasti and the application received after this dated shall not be considered.”*

The petitioners, thus, on the basis of the order passed by this Court on 03.05.2010 in the case of **Rajwinder Singh (supra)** seek consideration for appointment. It is not disputed that the petitioners had not acquired the educational qualifications as required as per the advertisement dated 05.09.2007 by the cut-off-date. In the case of the petitioner No.1, the ETT certificate has been issued on 14.07.2010 and in the case of petitioner No.2 the Bachelor of Education certificate has been issued on 09.09.2011. Both the certificates are thus issued after the cut-off-date i.e. 30.09.2007.

In such circumstances, it is apparent that the petitioners did not have the requisite qualifications as per the initial advertisement against which they seek consideration. It is settled principle that the cut-off-date is sacrosanct and candidates have to comply with the eligibility as prescribed. The subsequent acquisition of the qualifications would not give them right to apply. The intention of this Court in the case of ***Rajwinder Singh (supra)*** was only to ensure that vacant seats which are being not filled up for lack of candidates from possessing certificate A and B Grade could be filled up by candidates having lesser sports achievements and having certificates C and D Grade and not to extend the cut-off-date. The State, accordingly, acted on the said order and issued the advertisement dated 19.11.2011 (Annexure P-5) by limiting the applicability to candidates having the required eligibility criteria, as per the initial advertisement. The petitioners being not eligible as per the initial advertisement on the cut-off-date cannot, thus, get any benefit of the order dated 03.05.2010 having acquired the required educational qualifications subsequently. Reliance can be placed upon the observations made by the Apex Court in ***'Dolly Chhanda Vs. Chairman, JEE' 2004 (4) RSJ 685.***

The relevant para reads as under:-

“7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either

in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.”

In such circumstances, no fault can be found in the action of the State for not considering the case of the petitioners.

Resultantly, this Court does not feel that there is any scope for interference and the writ petition is, accordingly, dismissed.

FEBRUARY 09, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE