

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

**CWP No. 3987 of 2013
Date of decision : 13.06.2016**

Rakesh Kumar

....Petitioner

versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.K.. Chahal, Advocate
for the petitioner.

Mr. Keshav Gupta, AAG, Haryana

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

RITU BAHRI, J.

Petitioner has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India, seeking a writ in the nature of mandamus for issuance of direction to the respondents to consider him eligible for the post of PGT Mathematics as advertised on 11.01.2013.

The Haryana School Teachers Selection Board issued an advertisement dated 7.6.2012 for recruitment of P.G.Ts in various subjects. In the advertisement itself a one time exemption from qualifying the H.T.E.T/S.T.E.T Examination was available to all such candidates who had four years experience as P.G.T on 11.4.2012. In the initial advertisement it was also stipulated that such candidate seeking exemption should be working on the post as on 11.4.2012.

Thereafter, the respondent-Board issued a notice dated 11.1.2013 in terms of which the requirement of holding the post on 11.4.2012 was waived of in the light of a judgement passed by a Division Bench of this Court. Accordingly, candidates were again given a chance to apply. It is contended that the petitioner, who possesses the essential qualifications for the post of P.G.T (Mathematics) as also has the requisite experience of four years as on 4.11.2012 applied for the post in question. His candidature has been rejected on the ground that he is not eligible as per notice dated 11.1.2013.

This court while issuing notice of motion on 22.02.2013 allowed the petitioner provisionally to be interviewed for the post of PGT (Mathematics) but his result was not to be declared without the leave of this Court.

On notice, a reply has been filed on 10.05.2016 and a stand has been taken that pursuant to advertisement 1/2012, petitioner has not applied before the cut off date viz 28.06.2012 as admitted by the petitioner. Thereafter, in compliance of order dated 21.12.2012 passed in C.W.P No. 15929 of 2012 titled as Shivani Gupta v. State of Haryana and others and connected LPA, the Haryana School Teachers Selection Board issued advertisement dated 11.01.2013 and it was mentioned that those applicants who have applied earlier against advertisement No. 1/2012 dated 07.06.2012 and their candidature was rejected by the Board on the ground that the applicant is not in service on 11.04.2012 and was not in service on the date of applying online application form or due to this reason they could not appear before the Selection Board are advised to login their registration number through the website for verification/scrutiny cum interview, these

candidates need not to apply again as their application will be considered. This notice dated 11.01.2013 was for the candidates who applied earlier and were not eligible due to the condition in Note No. 2 of the advertisement dated 07.06.2012 that they were not in service on 11.04.2012 and also for the persons who could not apply due to condition mentioned in Note No. 2 of advertisement dated 07.06.2012 that were not in service on 11.04.2012. The petitioner was in service on 11.04.2012 as per his experience certificate dated 15.1.2013 and he fulfilled all the conditions but did not apply against 1/2012. The cut of date of notice dated 11.01.2013 was extended for the candidates who were not eligible against the advertisement dated 1/2012.

Learned counsel for the petitioner has relied upon a Division Bench judgment of this Court in a case of ***Jaswinder Kaur vs. State of Punjab and others, 2010(5) SLR 635.***

The above said judgment is not applicable to the facts of the present case, as in that case petitioner was appointed as JBT teacher and was terminated on the ground that she added marks secured in internal assessment which was not permissible. Applications were again invited for the same post. Subsequent advertisement stipulating that those candidates who already applied against earlier advertisement they need not to apply again. Petitioner's case required to be considered in selection process initiated in subsequent advertisement candidate appointed in subsequent advertisement scored less marks than petitioner.

In the present case, the petitioner had not make any application before the cut off date, pursuant to advertisement 1/2012 and this fact is not being disputed by the petitioner. Even though he was eligible earlier but the notice dated 11.01.2013 was for the candidates who applied earlier and were

not eligible due to the condition in Note No. 2 of the advertisement dated 07.06.2012 that they were not in service on 11.04.2012 and also for the persons who could not apply due to condition mentioned in Note No. 2 of advertisement dated 07.06.2012 that were not in service on 11.04.2012. The petitioner was in service on 11.04.2012 as per his experience certificate dated 15.1.2013 and he fulfilled all the conditions but did not apply against 1/2012.

In view of the above facts, the writ petition is dismissed being devoid of any merit.

(RITU BAHRI)
JUDGE

13.06.2016
G Arora