

C.W.P No. 423 of 2013

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 423 of 2013

DATE OF DECISION:30.11.2016

Dharamjit Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Arun Takhi, Advocate
for the petitioner.

Mr. L.S. Virk, Addl. A.G., Punjab
for respondents No.1 to 3.

Mr. B.S. Sidhu, Advocate
for respondent No.15.

Mr. M.S. Sudan, Advocate for
Mr. J.S. Maanipur, Advocate
for respondents No. 20 and 22.

DAYA CHAUDHARY, J.

The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of selection/appointment of private respondents No. 4 to 23, who are stated to be lower in merit viz-a-viz the petitioner. A further prayer has also been made for issuance of a direction to respondents No. 1 to 3 to appoint the petitioner as Math Mistress from the date others have been selected/appointed along with all consequential benefits.

Briefly, the facts of the case as made out in the present petition, are that an advertisement was issued in Daily newspaper 'The Hindustan Times' on 23.9.2009 inviting applications from the eligible candidates for filling up 3638 posts of Masters in various subjects including 1275 posts of Math Masters on contract basis on a consolidated salary of ₹ 5400/- per month. As per advertisement, the age of the candidate should be between 18 to 37 years as on 1.1.2009. The petitioner being eligible applied for the post of Math Master under Scheduled Caste Category. A combined provisional merit list of Masters/Mistresses in Mathematics was prepared and name of the petitioner was at Sr. No. 6450. Her provisional merit was 55.3667. Thereafter, merit list of selected candidates was prepared category wise and the petitioner was at Sr. No. 19 in the waiting list.

The selection and appointment of private respondents has been challenged by raising various grounds like the petitioner was higher in provisional list but her name was not there in the final list, whereas, name of respondent No.4 figured at Sr. No. 6458 in the open combined provisional merit list but she has been shown at Sr. No. 105 in the list of selected candidates. Similarly other private respondents were also lower in merit but still the petitioner has not been selected/appointed. Learned counsel for the petitioner contends that the petitioner has been ignored and as such the action of the respondents is illegal, arbitrary, malafide and unconstitutional. The petitioner being more meritorious viz-a-viz respondents No.4 to 23 has a preferential right to be selected and appointed to the post of Math Mistress under Scheduled Caste category.

Written statement on behalf of respondent-State has already been filed and the same is on record.

Replies on behalf of some of the private respondents have also been filed and the same are also on record.

Learned counsel for respondent-State on the basis of reply submits that the petitioner is claiming her merit by considering her marks as 55.3667, whereas, her actual marks were 54.3667 which were rightly calculated and prepared by the Departmental Selection Committee (Teaching). The petitioner has wrongly claimed two marks of the teaching experience for the period from 6.11.2004 to 29.12.2006, whereas, there were two gap periods of one month and seventeen days and one month and twenty days. After deducting these gap periods, the teaching experience comes to 22 months and 16 days which was lesser than two years. One mark was given for the experience, whereas, the petitioner has calculated two marks for the experience. This gap was verified subsequently after preparation of the provisional list. Learned State counsel submits that out of total 1275 posts, 127 posts were earmarked for the candidates who belong to Scheduled Caste (R&O) category, which were further divided in the ratio of 50:50 amongst male and female candidates as per the terms of advertisement dated 23.9.2009. 63 posts were meant for male Scheduled Caste (R&O) category and 63 posts were meant for female Scheduled Caste (R&O) category and 127th post was meant for the candidate who was higher in merit. The petitioner was having 187th rank as per result prepared by Departmental Selection Committee (Teaching) as her marks were 54.3667. The name of the petitioner was not in the zone of selection and she could not be selected/appointed. Learned State counsel also submits that the waiting list was also prepared and name of the petitioner was at Sr. No. 19 of the waiting list but the same ceased to operate by the department vide

order dated 9.8.2013.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on the file.

Facts relating to publication of advertisement, age, requisite qualification and experience are not disputed. Undisputedly, the petitioner applied for the post of Math Master and she was to be considered against 63 posts meant for category of female Scheduled Caste (R&O). In the provisional list, the marks of the petitioner were shown as 55.3667 including two marks for two years experience, whereas, on verification of experience certificate, the petitioner was found not having two years experience as there were two gaps in between and accordingly, the petitioner was awarded one mark for the experience in the final merit list. The merit of the petitioner was not on the higher side viz-a-viz private respondents. The advertisement was issued on 23.9.2009 and the selection had taken place on 9.8.2013. The waiting list was also prepared and the petitioner was at Sr. No. 19 of the same. The validity of the waiting list had already expired. The petition was filed in the year 2013 after the expiry of validity of even waiting list. Not only on merit but the claim of the petitioner cannot be considered on the ground of delay itself.

Accordingly, there is no force in the arguments of learned counsel for the petitioner and as such the present petition being devoid of any merit is hereby dismissed.

November 30, 2016
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes