

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6137 of 2013 (O&M)

Date of Decision: 09.02.2016

Sunita Rani

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kapil Kakkar, Advocate,
for the petitioner.

Ms. Puneet Kaur Sekhon, 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)

1. There were two obstacles the petitioner was faced with, which denied her appointment on merit as a Hindi teacher in a process of direct recruitment initiated by the Education Department, Punjab.

2. Insofar as the first obstacle is concerned, the State is prepared at the hearing to concede that the experience certificate furnished by the petitioner should hold good towards calculation of marks as per criteria and merely because it was not counter-signed by the District Education Officer furnishes no valid reason to deprive her of the marks assigned for experience. Furthermore, a candidate, namely, one Ms. Maninder Kaur has been selected and appointed by counting her experience earned in the same school in which the petitioner taught, which experience certificate is also not countersigned by the District Education Officer. Here lies unreasonable discrimination. Nevertheless, both the experience certificates, i.e., of the

petitioner and Ms. Maninder Kaur were affirmed/signed by the authorize person in the Punjab School Education Board to which the school- Bhagat Puran Singh Memorial Senior Secondary School, Rajewal (Rohno) District Ludhiana is affiliated.

3. With the removal of this impediment, two marks would have to be added to the grand total of marks. When done, even then she would not make the grade on merit since her score would still be lower than the marks secured by the last candidate selected and appointed.

4. The second obstacle is like this. It relates to interpretation of the essential qualifications advertised for the post of Hindi Mistress and a corrigendum issued subsequently on September 27, 2009 which clarifies the position regarding calculation on merit. The question is to whom it applies. The corrigendum reads as follows:-

“Those candidates, who have passed additional subject to become eligible, in those cases the marks obtained in additional subject will be added in the marks obtained during graduation and the marks of one least scoring subject will be deleted in lieu of that.”

5. The essential qualifications advertised are as follows:-

“Graduation from recognized university with Hindi as a subject during the three years of graduation along with B.Ed. with teaching of Hindi.”

6. Indisputably, the petitioner graduated with Hindi as a subject in graduation. She is B.Ed. qualified with teaching of Hindi. As a result, the petitioner was already eligible for the post of Hindi Mistress before the corrigendum was issued. Does the corrigendum assist her in increasing her marks? If yes, then the petitioner secures more marks than the last candidate

selected.

7. The purpose of the corrigendum appears to bring certain candidates who could not make it within the eligibility criteria by giving a concession/relaxation to those candidates as had passed additional subject in graduation “to become eligible”. It was only in such cases that the marks obtained in the additional subject would be added to the marks obtained in Graduation and the marks of one least scoring subject would be deleted in lieu of that.

8. Mr. Kakkar submits that in Graduation the petitioner read the additional subject of History which was also part of the combination of subjects she took up for study in B.Ed. (Hindi) and without the subject of History she could not have qualified the B.Ed degree as those marks were part of her total marks. A fallacy lies in the submission since History was essential to degree of B.Ed in a combination and not just additional. He has paraphrased the argument pressed at the hearing in para.5 of the replication as follows:-

“5. That it is trite that in matters concerning appointment to Government posts, fair play and good conscience, along with adherence to equity, are paramount prescriptions. It is unfair to the petitioner to be drawn into fighting futile, if not frivolous litigation. It would also be not out of place mention here that the plea of the respondents that the word to be eligible as mentioned in corrigendum refers to additional subject passed to be eligible for post applied is completely wrong, as no candidate will have to pass the additional subject in advance for any post to be applied for in future. However, the eligibility as mentioned in this para refers to eligibility for B.Ed. only and in the case of the petitioner two subject combinations (Hindi & History) were mandatory for doing B.Ed.”

9. The question which arises for consideration is as to the meaning of expression “to become eligible” used in the corrigendum. The corrigendum refers to “graduation” while the essential qualifications uses both “graduation” and “B.Ed.” for different purposes. The purpose of the corrigendum seems to be aimed at those candidates who were not making it on eligibility and in such cases the corrigendum was devised to replace marks scored in additional subject by deleting the subject in which a student scored the least. The corrigendum was not aimed at those candidates who were already eligible under the advertised qualifications and, therefore, the petitioner can have no advantage of the corrigendum apparently not addressed to her. The very purpose of a corrigendum is clarificatory in nature to crease out difficulties encountered in the original advertisement and, therefore, in the opinion of this Court while the petitioner passes muster of the first obstacle she cannot cross the second.

10. The interpretation placed by the State in its reply appears to the Court to be a rational one. The word “graduation” in the corrigendum would in my opinion refer to B.A and not B.Ed degree. Moreover, the view of the rule-maker when it appears on the face of it to be a plausible and possible view, and not an impossible view, then it deserves to be respected since the State pays the costs of employment under it ordinarily from the date of appointment and till the candidate-employee retires from service on reaching the age of superannuation three decades down the line.

11. Apart from that, the corrigendum is not under challenge and has only been subjected to interpretation. I have not been able to understand the logic in Mr. Kakkar's pleaded case [supra] when he ruminates: “the plea of

the respondents that the word to be eligible as mentioned in corrigendum refers to additional subject passed to be eligible for post applied is completely wrong, as no candidate will have to pass the additional subject in advance for any post to be applied for in future.” I have not been enlightened either of what it means.

12. No ground is made out to interfere in writ jurisdiction.
13. The petition is accordingly dismissed.

(RAJIV NARAIN RAINA)
JUDGE

09.02.2016
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