

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

**CWP No.7590 of 2013 (O&M)
Date of Decision: 05.10.2016**

Shalini Ahuja

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Vaibhav Parashar, Advocate,
for the petitioner.

Mr. Ravi Pratap Singh, AAG, Haryana.

TEJINDER SINGH DHINDSA, J.

The instant petition is directed against memo dated 01.02.1993 (Annexure P-7) issued by the Haryana School Teachers' Selection Board whereby the candidature of the petitioner for the post of PGT (Biology) has been rejected on the ground that she does not possess the essential academic qualifications prescribed for the post.

In the advertisement, in pursuance to which the petitioner had submitted her application, the essential qualifications prescribed for the post of PGT (Biology) were M.Sc. (Biology) or Zoology or Botany or Bio-Science or Bio-Chemistry or Genetics or Micro-Biology or Plant Pathology or Bio-Technology with at least 50% marks from a recognized university. Petitioner possesses the qualifications of M.Sc. (Bio-Physics) from Panjab University, Chandigarh.

The precise case set up on behalf the petitioner is that a letter dated 02.11.2012 (Annexure P-5) has been issued by the Panjab University,

Chandigarh in terms of which M.Sc. in Bio-Physics has been treated to be at par with a post-graduate degree in the field of Bio-Sciences for all purposes. On the strength of letter dated 02.11.2012 (Annexure P-5), counsel appearing for the petitioner has argued that in spite of possessing equivalent qualifications to the one prescribed under the advertisement for the post of PGT Biology, candidature of the petitioner has been rejected and the same is wholly unwarranted and illegal.

Counsel for the parties have been heard at length.

It is not in dispute that the qualifications prescribed in the advertisement for the post of PGT (Biology), are para-materia to the ones laid down under the Statutory Service Rules governing the post i.e. Haryana State Education School Cadre (Group 'B') Service Rules, 2012. A full Bench of this Court in *Som Dutt Vs. State of Haryana and another 1983 (3) SLR 141* while dealing with the right of the employer to prescribe qualifications for the post has clearly held that in a situation where qualifications are prescribed by Statutory Rules then the State/Recruitment Agency would have to proceed in a manner, whereby there is literal or strict compliance as regards qualifications prescribed under the Rules. It was further held that in matters regarding academic qualifications, it would be advisable to leave the field to the experts and the Courts would hesitate to intervene. It was also observed that the qualifications having been laid down in binding Statutory provision then under concept of strict compliance, recruiting agency would be entitled to insist that these be meticulously satisfied and the claim as regards other qualifications to be similar or technically higher than the one prescribed would be totally irrelevant.

It would be apposite to notice that under the orders of this Court a committee consisting of (i) Chairman, Botany Department, Kurukshetra University, (ii) Head, Department of Botany, Maharshi Dayanand University, Rohtak and (iii) Head, Department of Zoology, Maharshi Dayanand University, Rohtak had been constituted to examine the qualifications possessed by the petitioner and to render an opinion as to whether the petitioner can be considered eligible for appointment as Post Graduate Teacher (Biology).

The report submitted by the Expert Committee has been placed on record as Mark 'A' and reads in the following terms:

“Subject: CWP No.7590 of 2013-Shalini Ahuja Vs. State of Haryana and others.

The meeting of the committee consisting of the following members was held in the office of Additional Director (Admn-II) for Director Secondary Education, Haryana, Panchkula at 11:00 am regarding the subject cited above.

- | | |
|--|-----------------|
| <i>1. Prof. Narender Singh,
Chairman, Botany Department,
Kurukshetra University.</i> | <i>Chairman</i> |
| <i>2. Prof. Pushpa Dahiya,
Head, Dept. of Botany,
MDU, Rohtak.</i> | <i>Member</i> |
| <i>3. Prof. Vineeta Shukla,
Head, Dept. of Zoology,
MDU, Rohtak</i> | <i>Member</i> |

It was unanimously resolved as under:-

The candidate has studied B.Sc. (HS), Bio-Physics and M.Sc. (HS) Bio-Physics. The syllabus of B.Sc. (HS) and M.Sc. (HS) Bio-Physics was downloaded from the Panjab University site through internet.

The Committee has gone through the syllabus of

B.Sc. (HS) and M.Sc. (HS) Bio-Physics and it was found that the syllabus of M.Sc. (HS) Bio-Physics is not equivalent to any of the subject mentioned eligible for PGT Biology.

Moreover, the candidate has not studied Botany and Zoology either at graduation or at the Post-graduation level.

Hence the committee is of the view that M.Sc. (HS) Bio-Physics is not equivalent to any of the discipline mentioned eligible for PGT Biology. Therefore, the candidate may not be considered eligible for appointment as PGT Biology.

*Prof. Vineeta Shukla
Head, Dept. of Zoology,
MDU, Rohtak*

*Prof. Pushpa Dahiya,
Head, Dept. of Botany,
MDU, Rohtak*

*Prof. Narender Singh,
Chairman, Botany Deptt.,
Kurukshetra University.”*

The opinion rendered by the Expert Committee would virtually seal the fate of the petitioner and against her. The submission raised by counsel that while giving out its opinion, the committee has not considered the letter dated 02.11.2012 (Annexure P-5) issued by Panjab University is wholly misplaced. Perusal of the Expert Committee's report would clearly show that syllabus of B.Sc. (HS) and M.Sc. (HS) Bio-Physics were downloaded from the Panjab University website and it has been opined that the syllabus of B.Sc. (HS) and M.Sc. (HS) Bio-Physics is not equivalent to any of the subjects mentioned eligible for the post of PGT Biology.

This Court lacks the expertise to delve into such matters and to take a different view than the one taken by the Expert Committee. In the absence of any plea as regards bias or mala fides, there would be no occasion for this Court to entertain any doubt as regards the correctness of the opinion furnished by an Expert Committee.

Even otherwise, it is for the employer to prescribe qualifications for appointment to a particular post. Whenever specific

qualifications are prescribed for a post, the incumbent for such post would not be vested with an inherent right to seek the benefit of equivalent or matching qualifications. In the absence of a clear stipulation inserted in the advertisement indicating the power that the State or the recruitment agency, as the case may be, to consider and appoint such incumbent possessing such qualifications, the petitioner cannot compel the respondents to treat her qualifications to be equivalent to the one prescribed in the advertisement.

In taking such view, this Court would draw support from a Division Bench of this Court in ***Ajay Kumar Vs. State of Haryana, 2004 (1) SCT 888*** and the relevant portion of which reads in the following terms:-

“Learned counsel for the petitioner has contended that the qualifications/degree in Bachelor of Journalism and Mass Communication from Maharshi Dayanand University, Rohtak, is being treated equivalent to the Post Graduate Diploma of the Kurukshetra University. In this regard, he relied upon a letter issued by the Assistant Registrar of Maharshi Dayanad University dated 4.8.2003. This letter is of no help to the petitioner. It is for the employer to prescribe essential qualifications for appointment to a particular post. The Government in its wisdom provided the essential qualifications specifically excluding the expression “or any other course equivalent to the prescribed qualifications.” Absence of this clause clearly indicates that the State and the Commission did not desire to appoint people possessing equivalent qualifications. A clause of equivalence as treated for academic purpose may not essentially be true or universally applicable for employment purposes as well. In the field of employment a specific stipulation should be provided in the rules/instructions and/or the equivalent to the specified qualifications. Nothing has been brought to our notice which vests the respondents with such power in relation to the present

advertisement. On the other hand, by very absence of such clause, exclusion of such power is clear. We are of the considered view that the petitioner cannot compel the respondents to treat his degree of Bachelor of Journalism and Mass Communication from Maharshi Dayanand University, Rohtak as a Post Graduate Diploma for the purpose of satisfying the prescribed essential qualifications.”

Applying the dictum laid down in the Full Bench decision in ***Som Dutt's case (supra)*** and Division Bench Judgement in ***Ajay Kumar's case (supra)*** as also in view of the discussion hereinabove, this Court does not find any infirmity in the action of the respondent Board in having treated the petitioner as ineligible for the post in question.

Writ petition is dismissed.

05.10.2016

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No