

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

LPA No.984 of 2016 (O&M)

Date of decision: 04.07.2016

Gurjinder Singh

.....Appellant

versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Bikramjit Singh Bajwa, Advocate for appellant.

DARSHAN SINGH J.

CM No.2036-LPA of 2016

This application has been moved under Section 5 of the Limitation Act, 1963 for condonation of delay of 66 days in filing the present appeal.

Heard on the application.

In view of the reasons mentioned in the application, the same is allowed and the delay of 66 days in filing the present appeal is hereby condoned.

CM No.2037-LPA of 2016

This application has been moved under Order 41 Rule 27 read with Section 151 of the Code of Civil Procedure, 1908 seeking permission to place on record the additional documents Annexure A-1 *i.e.* the copy of the order dated 16.03.2016 passed in Civil Writ Petition No.14597 of 2012 and Annexure A-2 *i.e.* copy of advertisement with regard to the appointment of Teacher-7041 in primary school of rural areas.

Heard.

In view of the reasons mentioned in the application, the application is allowed. Documents Annexure A-1 and Annexure A-2 are taken on record.

LPA No.984 of 2016

The present Letters Patent Appeal under Clause 10 of the High Court Rules and Orders has been preferred against the judgment dated 23.02.2016 rendered by the learned Single Judge of this Court in CWP No.18783 of 2012.

2. The appellant has filed the Civil Writ Petition No.18783 of 2012 titled Gurjinder Singh Vs. State of Punjab and others for issuance of a writ in the nature of mandamus directing the respondents to consider the petitioner for the post Master Cadre advertised on 07.05.2011 being eligible and successful candidate. The issuance of a writ in the nature of certiorari to quash the list qua the petitioner was also prayed for.

3. The writ petition preferred by the appellant was dismissed by the learned Single Judge vide impugned judgment dated 23.02.2016. Hence this Letters Patent Appeal.

4. Learned counsel for the appellant contended that the posts of Master Cadre were advertised on 07.05.2011. The last date for submission of the application forms was 30.05.2011. As per the terms of the advertisement, the candidates were required to clear the Punjab State Teachers Eligibility Test (for short the TET). He contended that last date for submitting the applications was 30.05.2011 but no TET was conducted by the respondents. The appellant preferred the civil writ petition No.21301 of 2011 which was decided on 13.02.2012 and this Court has given the direction to the respondent to consider the anomalous situation which has been created due to cut-off date prescribed in the advertisement whereas the TET was conducted for the first time in the State of Punjab on 03.07.2011 *i.e.* after the cut-off date. Learned counsel for the appellant further contended that in compliance of the order passed by this Court, the public notice (Annexure P-3) was issued by the respondents giving the last chance to the candidates for applying who have passed the TET-2. He contended that the appellant has appeared in the examination for the degree of B.Ed. in April-May, 2011. His result was declared on 03.07.2011 *i.e.* before the result of TET, which was declared on 30.07.2011. Thus, he contended that the cut-off date should be deemed to be on 30.07.2011 when the result of TET was declared. The appellant has already acquired the B.Ed. degree on 03.07.2011. Thus, he contended that the appellant was eligible of the post of Master Cadre. He had also cleared the TET test. So, he was wrongly denied the appointment. He contended that the learned Single Judge has erred in dismissing the writ petition.

5. We have duly considered the aforesaid contentions.

6. This fact is not disputed that in response to the advertisement dated 07.05.2011, the appellant has applied for the post of Master Cadre. It is also not disputed that as per the terms and conditions of the advertisement dated 07.05.2011, the cut-off date to submit the application forms was 30.05.2011. It was also categorically mentioned in the advertisement that the candidate should be B.Ed. pass. Thus, as per the terms and conditions of the advertisement, the candidate should have the B.Ed. degree on the cut-off date *i.e.* 30.05.2011. It is admitted case of the appellant himself that though he had appeared in the examination for B.Ed. in April-May, 2011 but his result was declared on 03.07.2011. So, he had passed the B.Ed. on 03.07.2011 *i.e.* much after the cut-off date on 30.05.2011.

7. Mere this fact that in compliance of the order dated 13.02.2012 passed by this Court in CWP No.21301 of 2011, the public notice was issued by the respondents giving a last chance for applying who had passed the Punjab State Teachers Eligibility Test-2 and those who could not have applied in connection with advertisement (Annexure P-1) till the last date of submission of the applications *i.e.* 30.05.2011, will not extend the date to acquire the basic requisite qualification. In that public notice the concession was given only to those candidates who had passed the TET-2 and those who could not have applied earlier in response to the advertisement (Annexure P-1) before the cut-off date *i.e.* 30.05.2011. However, it was categorically mentioned in the public notice that “rest of the conditions published in the advertisement dated 07.05.2011 will only be applied”. It means that there was no extension of the date for acquiring the basic qualification. Meaning thereby, even as per the public notice

(Annexure P-3), only those candidates who have passed B.Ed. before the cut-off date *i.e.* 30.05.2011 were eligible.

8. The impugned order shows that the appellant has not raised any plea before learned Single Bench that the cut-off date should be deemed to be 30.07.2011 *i.e.* the date on which the result of TET was declared. This plea has been advanced for the first time before this Division Bench and cannot be considered. Moreover, the declaration of the result of TET will not extend the cut-off date with respect to the qualification/eligibility in the absence of any such stipulation either in the advertisement (Annexure P-1) or in public notice (Annexure P-3).

9. The Hon'ble Single Judge has rightly relied upon case ***Dolly Chhanda Vs. Chairman, JEE 2005(9) Supreme Court Cases 779*** to conclude that there can be no relaxation for possessing the requisite qualification by the cut-off date and the necessary certificate and degree have to be produced by the cut-off date. We have no reason to differ with the aforesaid conclusion arrived at by the learned Single Judge. Admittedly, as the appellant was not possessing the B.Ed. degree on the cut-off date *i.e.* 30.5.2011, so we do not find any illegality in dismissal of the writ petition filed by the appellant by the learned Single Judge.

10. In view of our aforesaid discussion, the present appeal has no merits and the same is hereby dismissed.

(DARSHAN SINGH)
JUDGE

(SURYA KANT)
JUDGE

04.07.2016

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