

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No. 13690 of 2013 (O&M)
Date of decision: February 15, 2017

Ashok Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Puneet Gupta, Advocate,
the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

JAISHREE THAKUR, J.

1. The challenge in the instant writ petition is to the order dated 09.05.2013 (Annexure P/10) passed by the Director Public Instructions Secondary Education, Punjab, whereby the claim of the petitioner for appointment to the post of Vocational Master (Computer Science) in the general category has been rejected.

2. The petitioner passed his Bachelor of Arts examination in April 1999 and was awarded regular 3 years Diploma in Computer Engineering by the Punjab State Board of Technical Education and Industrial Training. The petitioner also has the experience of working as Computer Teacher since 1997. Pursuant to an advertisement dated 23.09.2009, the petitioner applied in the general category for appointment on the post of Vocational Master/Mistress (Computer Science). The eligibility as specified in the advertisement was that the candidate should have 3 years diploma in

Computer Science/Education issued by the State Board of Technical Education and Industrial Training and 3 years experience from any government or government aided or government registered institution or practical work experience, duly countersigned by the competent authority. The selection was based purely on inter-se merit of the candidates to be determined on the basis of marks obtained in the qualifying examination and weightage to be given for the higher education and experience. The petitioner participated in the selection process and obtained 60.8637% marks. He was called for counselling and his documents were scrutinized. However, the persons lower in merit were offered appointment ignoring the candidature of the petitioner. Therefore, the petitioner approached the Department concerned by filing a representation dated 25.11.2011. Since no action was taken thereon, he approached this court by way of filing Civil Writ Petition No. 19624 of 2012, which was disposed of by this court on 03.10.2012, directing the respondents to consider his claim and by order dated 09.05.2013, claim of the petitioner for appointment to the post of Vocational Master was declined. Aggrieved against the said rejection the instant writ petition has been filed.

3. Mr Puneet Gupta, learned counsel appearing on behalf of the petitioner contends that the impugned order suffers from the vice of non-application of mind and violation of the fundamental principles enshrined in the Constitution of India. It is argued that respondent No. 2 had rejected his candidature on the ground that the petitioner did not produce his original detailed marks sheet at the time of counselling. Learned counsel appearing on behalf of the petitioner urges that there was no such stipulation either

in the advertisement or in the scrutiny form which would indicate that detailed mark sheets had to be submitted at the time of counselling.

4. Per contra, learned counsel for the respondent—State urges that the petitioner did not furnish his detailed mark sheets of the diploma at the time of counselling and this has been noted in the scrutiny form. It is argued that a public notice was issued in which it was clearly specified that candidates having merit must report for counselling/scrutiny of original documents/certificates along with one set of attested photocopies of certificates/documents on the appointed day in person. Failure of any candidate to report personally with all complete certificates/original documents shall lead to forfeiture of his/her claim, and since the petitioner did not bring along with him detailed marks certificates of the three year diploma course, his candidature was not considered. Learned counsel relies upon a judgment rendered by the Apex Court in **Mridul Dhar (Minor) and another Vs. Union of India (UOI) and others 2005 (1) SCT 508 (SC)** to contend that institutions must follow a time schedule as prescribed and since the petitioner did not furnish detailed mark certificates, as per the note given in the public notice, on the date of counseling, his candidature was rightly rejected.

5. I have heard the counsel for the parties, and with their assistance have gone through the record which has been produced before this court.

6. The short question that needs to be determined is, whether the petitioner's candidature has been illegally rejected for want of detailed mark certificates at the time of counselling and if he is entitled to

appointment on the post applied for ?

7. The only ground for rejection of candidature of the petitioner is that detailed mark certificates of diploma were not attached or submitted at the time of counselling. There is no doubt that the petitioner had the necessary qualification for seeking appointment on the post of Vocational Master in general category for Computer Science. He had a three-year diploma course from Punjab State Board of Technical Education and Industrial Training. The said certificate was issued on 13.06.2000 showing therein that the petitioner had secured 1st Division with 2444 marks out of 3844 marks. As per the advertisement, a candidate was required to possess a 3 years Diploma in Computer Science/Education issued by the State Board of Technical Education and Industrial Training with 3 years working experience. The impugned order notices that the detailed marks certificates revealed that the petitioner appeared in 1st Examination in February 1991, 2nd Semester in July 1991 , 3rd and 4th Semester in January 1992, 5th Semester in August 1993 and 6th Semester in January 1993. Respondent No. 2 on perusal of the said detailed mark certificates held that there was overlapping in the duration of 3rd and 4th Semesters, which was not possible. Respondent No. 2 further held that this was one of the reasons as to why the petitioner did not produce the original detailed mark sheet at the time of counselling and, therefore, was not eligible for appointment.

8. A perusal of the public notice that has been produced before this court clearly reads that at the time of counselling a candidate is to bring his original documents with him along with photocopies of the same. At the

time of counselling, each candidate was to fill in a scrutiny form which detailed how and which original documents and their photocopies were to be arranged. The certificates that were to be annexed were date of birth/matriculation certificate, proof of Punjabi pass certificate, domicile certificate, sports certificate, certificate of reserved category, experience certificate, date of birth and government employee certificate. Along with this matriculation certificate, 10+2 certificate, one year Diploma, 2nd year Diploma, third-year Diploma, PG Diploma, graduation, B.Ed./B.P.Ed/BT/Postgraduate Grad./M.Ed. M. Phil Ph. D and any other certificates were to be annexed. The scrutiny form does not mention or specify that detailed mark certificate were also to be attached with any of the qualifications acquired. The public notice too does not mention that along with the diploma, detailed mark certificates are to be annexed. Once a candidate produces the diploma certificate, issued by a recognized University/Institute, a presumption is automatically drawn that the candidate has successfully completed all the semesters. In the instant case, the diploma certificate clearly mentioned that the petitioner had completed a three-year diploma course in Computer Engineering and secured 1st Division marks obtaining 2444 marks out of 3844. There was no occasion for the petitioner, who had completed his diploma course, to shy away from producing the detailed mark certificate as erroneously presumed. The diploma certificate once issued is the proof that a candidate has cleared all semesters and successfully completed his 3 year diploma course. Any presumption to the contrary is unsustainable.

9.

The judgment relied upon by the learned counsel for the

petitioner is distinguishable and not relevant to the facts of the present case in. In **Mridul (supra)**, the question before the Hon'ble Apex Court was whether all India quota of MBBS/BDS courses should be increased from its present 15%. While dealing with the issue the Hon'ble Apex Court laid down certain directions and timetable for grant of admission and held that institutions providing admissions must complete the admission process in the time schedule and file a report about the vacant seats in all India and State Quota. The aforesaid judgment is not applicable to the facts of the present case. The question herein is, whether there was a requirement for producing detailed mark certificates at the time of counselling when there was no specific mention earlier in the advertisement or the public notice issued.

10. Learned counsel for the petitioner has urged this court that there are still 23 vacancies left and the petitioner can easily be accommodated against those vacancies. Learned counsel for the respondent informs this court that the said vacancies are no longer in existence and by an order dated 09.08.2013 the Principal Secretary, Department of School Education Government of Punjab has directed to cancel any the further selection qua 7654 posts which were originally advertised on 23.09.2009.

11. The petitioner herein did have the necessary qualification and the marks to be offered appointment in the general category. The impugned order declining to consider the candidature of the petitioner only on the ground that detailed mark sheet had not been presented deserves to be set-aside since the same is beyond the requirement regarding production of documents. The candidature of the petitioner could not be rejected on the

ground that detailed mark certificates were not annexed, as the diploma certificate was furnished at the time of counselling.

12. Therefore, in view of the above, the writ petition is allowed and impugned order is hereby set aside. It is directed that in case the petitioner fulfills all other eligibility conditions, he be considered for appointment on the post of Vocational Master (Computer Science) with all notional benefits. In case there is no vacant post, as argued by the counsel for the respondent, a supernumerary post be created for the petitioner since his candidature was erroneously ignored at the relevant time.

13. Let the needful be done within a period of 3 months on receipt of certified copy of the order.

February 15, 2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No

