

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

CWP No. 10487 of 2015 (O&M)
Date of decision : May 08, 2017

Sunil Kumar

..... Petitioner

v.

State of Haryana and others

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ajay Bhardwaj, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG Haryana

Ajay Tewari, J

By way of this writ petition, the petitioner has challenged the action of the respondents in passing the order dated 11.7.2014, Annexure P-18.

Brief facts are that the petitioner who was M.Sc Statistics was appointed as Lecturer in Maths by SD Senior Secondary School, Khandsa Road Gurgaon on 13.9.1999 and worked upto 24.10.2008 and got the experience certificate. The then Haryana School Teachers Selection Board, Panchkula invited applications by advertisement dated 7.6.2012 for appointment of PGT Mathematics with the condition of having passed Haryana Teacher Eligibility Test/School Teachers Eligibility Test with one time exemption, minimum four years experience in privately managed government aided recognized school or government school, and the

candidate should have been in service on 11.04.2012 in addition to being in position on the date applying for the said post (as provided under Note 2 of the aforesaid notification). Admittedly, the petitioner was not in service on 11.4.2012. Note 2 of the aforesaid notification came to be challenged in CWP No.15929 of 2012, Shivani Gupta and others vs State of Haryana and others and this Court held the said Note 2 as contrary to the Service Rules and accordingly respondent No.2 issued a fresh notice/corrigendum dated 11.1.2013 stating that the candidates who had applied but were not called for scrutiny and interview were advised to re-login the site for verification/scrutiny-cum-interview, and also afforded an opportunity to apply to all those eligible candidates who could not apply earlier because of Note 2 in the advertisement dated 7.6.2012. Online applications were to be filled up from 14.1.2013 to 30.1.2013 and the last date for countersignature of the experience certificate was 28.01.2013. The petitioner applied for the said post and his application was accepted. The petitioner applied for grant of experience certificate to the Principal, SD Senior Secondary School, Gurgaon on 15.1.2013. Since the said school was reluctant to issue the experience certificate and the last date for countersignature by the Director, Secondary Education was approaching fast, the petitioner wrote letters to the District Education Officer to countersign the experience certificate issued earlier by the said School. Request of the petitioner was accepted and the District Education Officer directed the said school to produce the service record of the petitioner immediately. However, the school produced the record after the last date on 29.1.2013 and the District Education Officer countersigned the experience certificate on 29.1.2013. The petitioner submitted the same certificate before the Director Secondary Education to

countersign the same on 30.1.2013 but it was declined on the ground that the last date for countersignature had already expired. The petitioner filed CWP No.2453 of 2013 and during the pendency thereof, this Court directed the respondents to interview the petitioner and his result be kept in a sealed cover. The said writ petition was, however, dismissed by this Court on 5.7.2013. The petitioner went in LPA and on the basis of the undertaking given by the respondents that the case of the petitioner would be reconsidered by passing a speaking order within 15 days, this Court disposed of the said LPA, vide order dated 1.7.2014. Since the order dated 1.7.2014 was not complied with, the petitioner filed COCP No. 2743 of 2014. However, on the basis of the reply filed by respondent No.2 along with a copy of the order dated 11.7.2014, the said contempt petition was disposed of with a liberty to the petitioner to challenge the order dated 11.7.2014 in an appropriate forum. Hence, the present writ petition has been filed.

The precise grievance of counsel for the petitioner is that under the original advertisement, a period of four months and 9 days was granted to the candidates for getting their experience certificates countersigned from the Directorate but under the corrigendum only a period of 17 days was granted. Immediately after the corrigendum, the petitioner applied to the authorities subordinate to respondent No.4 to grant the certificate and especially mentioned therein on each occasion that the last date was 28.1.13.

Learned Sr. DAG Haryana has admitted this factual aspect but states that the last date is sacrosanct.

In my opinion, the argument of learned Sr. DAG Haryana

cannot prevail in the present case. The chronology of events brought out above shows that the petitioner has been very vigilant, and in fact this is the fourth round of litigation. It can not also be lost sight of that on the first occasion, the State had itself given four months for obtaining the experience certificate and on the second occasion, only a period of about two weeks was permitted. No reason has been advanced why such short time was granted for this purpose. Keeping in view the period granted at the time of original advertisement and the subsequent circumstances brought out, it has to be held that the period of two weeks provided for countersignature on the second occasion is unreasonably short.

In these circumstances, this writ petition has to be allowed. Ordered accordingly. Respondent No.4 is directed to countersign the experience certificate of the petitioner and respondent No.2 is directed to declare his result. In case, the petitioner is found to be successful, he would be placed in the merit list and given appointment from the date the other persons who competed in the same selection were appointed. He would also be entitled to all consequential benefits except salary and allowances.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

May 08, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No