

CWP-11691-2014 (O&M)

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

**CWP-11691-2014 (O&M)
Date of Decision : 16.5.2017**

Seema and another Petitioners

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr.S.S. Malik Advocate
for the petitioners.

Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

By this petition the petitioners have challenged the action of the respondent for not offering them to the post of Technical Assistant of General Category for Archaeological and Museum Department, Haryana despite the fact that they were selected and recommended by the Haryana Staff Selection Commission. The sum and substance of the case of the respondent-State is that the qualification which had been prescribed for the post is as follows:

i) At least IInd Class Maser Degree in Ancient Indian History with culture or Archaeology or Medieval Indian History.

OR

At least IInd Class Master's degree in Sanskrit or Arabic, Parsian Pali or Prakrit and Bachelor of Arts with Medieval Indian History or Ancient

CWP-11691-2014 (O&M)

Indian History as one of the subject.

2) Hindi/Sanskrit upto Matric standard.

The petitioners did not have the prescribed qualifications. Counsel for the petitioner has argued that it was the stand of the Commission as well as Kurukshetra University, Kurukhetra and the Maharshi Dayanand University that the qualification which the petitioners possessed was equivalent to the qualification prescribed by the Rules. In reply the contention of the State is that though there are many posts and services where the prescribed qualifications include a stipulation that an equivalent qualification can be considered but in this case there is neither the Rules nor the advertisement prescribed that apart from the qualifications laid down any equivalent qualification could be considered.

Counsel for the petitioners very vehemently argued that the petitioner No.1 did the higher course in M.Phil in Ancient Indian History but this has been repelled by the Assistant Advocate General by arguing that even the higher qualification did not have either Culture or Archaeology as was prescribed in the qualification. Next argument of the counsel for the petitioner is that by Annexure P-9 petitioner No.1 had earlier been appointed to the same post on contract basis and to this Assistant Advocate General has replied by arguing that a contractual appointment is qualitatively much different from a regular appointment and the fact that the petitioner was considered and appointed on contract basis would not in the circumstances of the case render her eligible to be considered and to be appointed on regular basis also.

In my opinion the basic issue is what is the scope of the

CWP-11691-2014 (O&M)

3

Court's over sight in a case where an employer finds that the recommended candidate does not meet the specifications which are required. To my mind, in such a situation the Court will only have to see if the reasons given by employers are not ex facie arbitrary or so unreasonable that no reasonable person could come to that conclusion. It is not the job of the Court to substitute its own mind for that of the employer.

In view of the facts and circumstance of the present case the explanation given by the respondent does not come within the category which I have enumerated above. I regret to find inability to grant any relief to the petitioner.

Petition stands dismissed.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

16.05.2017
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No