

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

CWP No. 22449 of 2012 (O&M)

Reserved on:07.11.2017

Date of Decision: 22.12.2017

Pawan Deep Kaur and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Gaurav Sharma, Advocate for the petitioners.

Mr. Avinit Avasthi, AAG Punjab.

TEJINDER SINGH DHINDSA J.

Petitioners are aggrieved of the action of the respondent-Education Department, State of Punjab, in having rejected their claim for appointment as JBT Teachers under the Sports Category Quota. Such rejection stands conveyed to the petitioners in terms of identical orders appended as Annexures P-7 to P-22 and which are under challenge in the instant petition.

Brief facts of the case are that an advertisement dated 05.09.2007 (Annexure P-2) was issued by the Office of Departmental Selection Committee, School Education Department, (Primary Wing), Punjab, inviting applications from eligible candidates for the posts of JBT/ETT Teaching Fellows. The last date for submission of application forms was stipulated as 30.09.2007. Applications of only such candidates were to be entertained who fulfilled the requisite academic/professional qualifications as on the closing date i.e.30.09.2007. Two years JBT/ETT

course was one of the essential qualifications prescribed. Two percent posts were reserved for Sports-persons (Men and Women). CWP No.7895 of 2008 came to be filed in this Court, raising a grievance that the benefit of reservation meant for Sports-persons as regards the advertisement dated 05.09.2007 was being restricted only to such candidates who are possessing 'A' or 'B' Sports grading certificates. As per the petitioners therein the post of JBT Teacher being at the lowest rank amongst the Class-III category, the Education Department ought to have considered eligible the Sports-persons with 'C' or 'D' Grading as well. The Writ Court held that it was imperative upon the State Education Department, to follow the Sports policy formulated by the State and as such to invite applications from the Sports-persons possessing 'C' Gradation in Sports. Insofar as Sports-persons with 'D' Grade, it was opined that it would be a matter of policy decision which the respondent-department may consider. Accordingly, the writ petition was allowed vide order dated 03.05.2010 and the operative part of which reads in the following terms:-

The writ petition is, accordingly, allowed to the extent that the respondents shall invite fresh applications for the posts reserved for Sports-persons by relaxing the condition of requirement of 'A' or 'B' gradation. It is further directed that the petitioners or other Sports-persons, who have already applied in response to the original advertisement, shall also be considered along with other eligible candidates and the process of recruitment shall be concluded within a period of six months from the date of receipt of a certified copy of this order.

Ordered accordingly."

In compliance of the judgment dated 03.05.2010, State of Punjab, issued a public notice dated 20.11.2011 (Annexure P-4) permitting candidates having 'B' and 'C' Grade Sports Certificates to apply for the JBT posts that had been advertised vide initial advertisement dated 05.09.2007. Applications of such desirous candidates were to reach by 30.11.2011. Petitioners herein claim that they were sports persons and had applied for the post in question in response to the public notice dated 20.11.2011. However, their claim stands rejected in terms of issuance of identically worded orders appended as Annexures P-7 to P-22. Rejection is on the ground that the petitioners have acquired the essential academic qualification subsequent to the last date of submission of applications i.e. 30.09.2007 as had been stipulated in the advertisement dated 05.09.2007 (Annexure P-2).

Counsel representing the petitioners has contended that the eligibility of the petitioners was to be considered upto 30.11.2011 i.e. the last date mentioned in the public notice dated 20.11.2011 (Annexure P-4) and which had been issued in compliance of the judgment dated 03.05.2010 passed by this Court in CWP No.7895 of 2008. Another limb of the argument raised is that the subsequent public notice dated 20.11.2011 operates in a manner that the condition of eligibility automatically stands extended upto the last date for submission of application forms mentioned in the public notice i.e. 30.11.2011. It is vehemently argued that all the petitioners acquired the essential academic qualifications prior to 30.11.2011 and as such rejection of their claim for appointment as JBT Teachers, cannot sustain.

Counsel for the petitioners has relied upon a Division Bench judgment of this court in *Navneet Kaur vs. State of Punjab and ors. 2008*

(4) *SCT 192* in support of his contention.

Per contra learned State Counsel has justified the passing of the impugned orders by submitting that the petitioners acquired the essential qualifications after 05.09.2007, which was the last date for submission of applications forms as per initial advertisement dated 05.09.2007 (Annexure P-2) and since on the relevant date the petitioners had not acquired the condition of eligibility as regards essential qualifications, their claim for appointment as JBT Teachers, has rightfully been rejected.

Counsel for the parties have been heard at length.

It is by now well settled that the cut-off date by reference to which the eligibility requirement must be satisfied by a candidate seeking public employment is the date appointed by the rules and if not, then, such date as may be appointed for the purpose in the advertisement calling for applications and even if there be no such date fixed in the advertisement then, the eligibility would be with reference to the last date by which the applications have to be received by the recruitment authority/agency. A reference in this regard may be made to the judgment of Honourable Supreme Court in the case of ***Bhupinder Pal Singh and ors. Vs. State of Punjab 2000 (2) SCT 826***. In the facts of the present case the advertisement was issued on 05.09.2007 (Annexure P-2). The essential academic qualification prescribed for the post of JBT was JBT/ETT Course. The last date for submission of application forms was 30.09.2007. It was clearly stated in the advertisement that applications of only such candidates shall be entertained who fulfilled the required academic/professional qualifications by 30.09.2007. Concededly, the petitioners herein have acquired the essential academic qualifications subsequent to 30.09.2007.

Clearly in terms of the advertisement dated 05.09.2007 (Annexure P-2) and as per dictum laid down by the Apex Court in **Bhupinder Pal Singh's case (Supra)** the petitioners were not eligible to be considered to appointment as JBT Teachers.

The submission advanced on behalf of the petitioners that the subsequent public notice dated 20.11.2011 (Annexure P-4) would tantamount to extending the last date for eligibility as 30.11.2011, is not well-founded. In this regard, it is observed that CWP No.7895 of 2008 was filed at the hands of the petitioners therein raising a grievance that Sports-persons with 'C' Grading ought also to be considered eligible. Such claim was upheld and the writ petition was allowed only to the extent that fresh applications be invited pertaining to posts reserved for Sports-persons and by relaxing the condition of requirement of 'A' or 'B' gradation certificates. By no stretch of imagination the writ Court while allowing CWP No.7895 of 2008 relaxed the condition as regards the essential academic qualifications laid down for the post. Such matter stood clarified by the public notice dated 20.11.2011 (Annexure P-4) issued by the respondent-department towards compliance of the judgment dated 03.05.2009 in CWP No.7895 of 2008. In the public notice dated 20.11.2011 (Annexure P-4) a specific note was inserted that the public notice is being issued in continuation of the advertisement dated 05.09.2007 and all the conditions as prescribed in the advertisement dated 05.09.2007 would remain the same and only as regards Sports quota seats candidates possessing 'B' and 'C' Grade sports certificate may apply and for which the last date was fixed as 30.11.2011. In other words the condition with regard to possessing essential academic qualifications and that too by 30.09.2007, remained the same as was laid down in the initial advertisement dated 05.09.2007.

Acceptance of the submission advanced for the petitioners herein would result in an anomalous situation i.e. insofar as sports-persons category is concerned the last date for acquiring academic qualification would be seemed as 30.11.2011 and for all other candidates the relevant date would be 30.09.2007. Such a situation cannot be permitted to prevail as it would tantamount to creating different classes amongst one homogeneous class i.e. prospective candidates for the post in question.

The reliance placed upon the Division Bench Judgement in **Navneet Kaur's case (supra)** is also misplaced. In that case a corrigendum had been issued in relation to an advertisement inviting applications for the post of Mathematics Masters/Mistresses and whereby the last date for submitting applications had been extended upto 31.08.2006. It is under such circumstances that the Division Bench held that since the last date for submission of applications stood extended upto 31.08.2006, it follows that the eligibility as per relevant clause would automatically be considered as 31.08.2006. Such judgment is clearly distinguishable as in the present case no such corrigendum had been issued extending the last date for submission of application forms for the entire class of candidates.

Yet another aspect that has weighed with this Court while denying relief to the petitioners is that no instance has been cited in the pleadings or during the course of arguments that any candidate under the Sports category quota and had had acquired the essential academic qualifications after 30.09.2007 has been considered for appointment to the post of JBT. In other words no plea of discrimination has been raised in the instant petition.

For the reasons recorded above, this Court does not find any

infirmity in the view taken by the respondent-department in having rejected the claim of the petitioners seeking appointment to the post of JBT Teachers.

No merit.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

December 22, 2017

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No