

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

CWP No.17205 of 2014 (O&M)

Date of Decision: 30.08.2017

Sunita Rani

--Petitioner

Versus

State of Punjab & others

--Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Madhav Pokhrel, Advocate for the petitioner.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

Mr. J.S. Puri, Advocate for respondents No.2 and 3.

Mr. Naresh Jain, Advocate for respondents No.4 to 6.

TEJINDER SINGH DHINDSA, J.

Petitioner is aggrieved of her non selection and appointment to the post of Principal by the respondent/Punjab School Education Board. Petitioner has assailed in the instant petition the selection and appointment of private respondents No.4 to 6 to the post in question.

Counsel representing the petitioner submits that an advertisement was issued in the month of October, 2013 by the Punjab School Education Board inviting applications for recruitment of various posts including four posts of Principals in the Adarsh Senior Secondary Schools run by the Board. One post was reserved for the Scheduled Castes category and the remaining three were to be filled up from amongst general category candidates. It is submitted that the petitioner fulfilled the essential

eligibility conditions of qualifications as also experience and accordingly, submitted her application online within the stipulated time frame. In December, 2013, a provisional merit list was uploaded on the website in which the petitioner had secured 47.89 marks as per criteria laid down in the advertisement. The merit list was termed as provisional as the interview which carried 10 marks was yet to be held. In the last week of December, 2013, a public notice was issued vide which candidates were called upon to attend a process of counselling. The petitioner claims to have attended the counselling process on 01.01.2014 and wherein her original documents pertaining to qualifications and experience were checked. Further information for conduct of interview was to be provided on the website and the petitioner noticed that on 17.05.2014, a list containing names of seven candidates was mentioned which did not include the name of the petitioner. No further information being available, husband of the petitioner is stated to have sought information under the Right to Information Act and in response thereto, information was received that interview for the post of Principal was conducted on 18.05.2014 and the eligible candidates had been informed through registered letters. A select list was then uploaded on the official website which reflected private respondents No.4 to 6 belonging to the general category as selected candidates for the post of Principals.

Counsel has argued that in the provisional merit list, the petitioner had obtained 47.89 marks whereas private respondents No.5 and 6 herein had obtained lower marks i.e. 40.68 and 40.50 marks respectively and in spite thereof, they have been interviewed and selected whereas the petitioner has been denied her vested right for consideration for appointment

to the post of Principal inasmuch as she has not even been called for the interview. Action of the respondent/authorities, as such, is alleged to be in violation of Articles 14 and 16 of the Constitution of India. Violation of Clause 6 of the advertisement has also been alleged by contending that it was incumbent upon the respondent/authorities to have called five times the number of candidates in relation to the post advertised whereas in the present process of selection only seven candidates were called for the interview against three selections/appointments having been made. Counsel would also contend that the entire selection process was shrouded in secrecy as no information with regard to the candidates to be called for the interview was put up on the website of the Board nor put in public domain by way of a public notice and rather the candidates selected were informed individually. Contention raised is that such modus adopted by the respondent/authorities would cast a shadow of doubt on the entire selection process and whereupon an inference can be drawn that the private respondents have been selected and appointed in derogation to the rights of the petitioner by following a criteria not based on merit.

Counsel for the parties have been heard at length.

In the advertisement issued by the respondent/Board, the educational qualifications/emoluments prescribed for the post of Principal were as follows:

<i>Sr. No.</i>	<i>Name of the Post/Pay</i>	<i>No. of posts</i>	<i>Qualifications</i>
<i>1.</i>	<i>Principal Rs.22200/- Consolidated per month</i>	<i>04</i>	<i>Post-graduation with minimum 50% marks and B.Ed./B/T/ from recognized university. And</i>

			<i>At least 6 years experience as Principal/ Headmaster from Government/Aided/ Recognized/Affiliated School with Central/ any State Board.</i> <i>OR</i> <i>At least 10 years experience as Lecturer from Government/Aided/Recognized/Affiliated school with Central/Any State Board</i>
xx	xx	xx	xx

Clause 6 governed the mode of selection and was in the following terms:

“6. Mode of Selections

The weightage shall be given as under for the preparation of the merit:

Principal

<i>Sr. No.</i>	<i>Qualification</i>	<i>Weightage/Marks</i>
<i>1.</i>	<i>Post Graduation</i>	<i>40%</i>
<i>2.</i>	<i>B.Ed./B.T.</i>	<i>20%</i>
<i>3.</i>	<i>M.Ed.</i>	<i>20%</i>
<i>4.</i>	<i>M.Phil.</i>	<i>10%</i>
<i>5.</i>	<i>Ph.D.</i>	<i>10 marks</i>
	<i>Total</i>	<i>100</i>

- 1) *In accordance with the above weightage the marks obtained by the candidates in the provisional merit after multiplying with 0.9 the final outcome shall be considered as merit marks. 10 marks shall be for the interview.*
- 2) *Amongst the applications received for each post as per the criteria mentioned above for one post, five candidates shall be called for counselling/interview. After the*

interview, final merit list shall be published.”

It is the pleaded case of the petitioner herself that she possesses 4 years, 9 months and 20 days experience with Guru Kasi Public Senior Secondary School, Bathinda as Lecturer (PGT) and 7 years, 7 months and 5 days experience as a Lecturer (Teaching in Hindi) in Guru Gobind Singh College of Education, Bathinda.

As per the requirement under the advertisement, a candidate had to possess at least 6 years experience as Head Master from government/aided/recognized/affiliated school or at least 10 years experience as Lecturer from government/aided/recognized/affiliated school.

Mr. Madhav Pokhrel Advocate for the petitioner has very fairly conceded that against the requirement of 10 years experience as Lecturer in a government/aided/recognized/affiliated school, petitioner possesses 4 years, 9 months and 20 days experience in such school whereas the other experience of 7 years, 7 months and 9 days was in a college. Petitioner, as such, did not possess the requisite and essential experience of 10 years as Lecturer in a school and under such circumstances, was ineligible for the post. That apart, it is also the conceded position of fact that the experience certificate of 7 years, 7 months and 5 days in Guru Gobind Singh College of Education, Bathinda was not counter-signed by the appropriate authority i.e. the District Education Officer (Secondary Education) of the concerned District. Such requirement had been stipulated under Clause 6(a) of the advertisement.

In the considered view of this Court, the objective of counter signing by the District Education Officer (Secondary Education) of the concerned District is to ensure that the experience certificate is credible and

authentic. It is not even the case of the petitioner that the certificate for experience of 7 years, 7 months and 5 days from Guru Gobind Singh College of Education, Bathinda had been counter-signed by any other authority which may be construed as competent to do so. No exception, as such, can be taken to the decision of the respondent/Board in having discounted such experience certificate.

In the written statement filed on behalf of the respondent/Board, it has been clarified that 43 applications in all were received for the post of Principal. In the counselling exercise, only 14 candidates came forward including the petitioner. Out of such 14 candidates, only 7 were declared eligible out of the general category whereas, none was found eligible for the reserved SC category. There is no rebuttal on such count at the hands of the petitioner. This would clarify the action of the respondent/Board in having called 7 candidates for the interview as opposed to the requirement of calling 5 times the number of candidates in relation to the post advertised.

In the writ petition, a ground had been taken by the petitioner that private respondent No.6, Smt. Balbir Kaur has been selected and appointed even though she was overage. It was averred by the petitioner that as per advertisement, the age limit of the candidate as on the closing date i.e. 01.01.2013 should not have been less than 18 years and more than 37 years whereas the date of birth of respondent No.6 is 05.06.1967 thereby making her clearly overage. Even on such count, the respondent/Board has justified the selection and appointment of respondent No.6 by referring to the Punjab School Education Board (Employees Service Regulation), 1988 (for short '1988 Regulations') and whereunder Regulation 13 provides that in case of

posts where experience is one of the essential qualifications, the upper age limit would be increased by the number of maximum years of experience required for such post. The relaxation in favour of respondent No.6 was in conformity with Regulation 13 of the 1988 Regulations. The contention raised on behalf of the petitioner as against respondent No.6 being ineligible as per age criteria is found to be without merit.

No other point was urged by counsel representing the petitioner.

In view of the discussion above, there is no merit in the petition and the same is dismissed.

30.08.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

(i) Whether speaking/reasoned?	Yes/No
(ii) Whether Reportable?	Yes/No