

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

120

CWP No.20779 of 2017 (O&M)

Date of Decision: September 13, 2017

Prem Kumar Jindal

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Vivek Sharma, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J. (Oral)

Petitioner is stated to be a disabled person suffering from a permanent hearing impairment.

The office of the Director, Education Recruitment Board-cum-Director General, Education Department, Punjab, issued advertisement dated 20.11.2015, inviting applications for filling up 90 posts of Lecturers (History). Three posts were reserved for handicapped persons and 44 posts were to be filled up from the General Category.

The last date for submission of online application forms was 12.12.2015.

It is the pleaded case of the petitioner himself that while submitting online application, he had applied under the General Category.

The claim raised in the instant petition is for issuance of

directions to the respondent-Education Department, as also the Recruitment Agency to consider the candidature of the petitioner for the post in question against the handicapped category. Furthermore there is a challenge to General Condition No.7 Sub Clause xiii and xiv, contained in the advertisement, which stated that a mistake that may have occurred at the time of filling up of application forms, would not be open to be corrected subsequently.

Counsel would advert to the disability certificate issued by the Civil Hospital Bathinda at Annexure P-4 dated 29.03.2016 and which reflects a disability as regards hearing impairment to the extent of 42%. It is contended that such certificate would conclusively demonstrate that the petitioner is a handicapped person and as such he was vested with a right to be considered against one of the three posts reserved for the handicapped category under the advertisement dated 22.11.2015. Further submitted that offending General Condition No.7 Sub Clause xiii and xiv are arbitrary and unfair inasmuch as the disability of the petitioner had not been acquired after the recruitment process had been initiated and a bona fide error is always open to be corrected.

Having heard counsel for the petitioner at length, this Court is of the considered view that there is no merit in the instant petition and no interference in the matter is warranted.

Petitioner is an educated person possessing the qualifications of M.A. (History) and B.Ed. He had submitted his online application in response to the advertisement dated 22.11.2015. In the

advertisement, General Condition No. 7 Sub Clause xiii & xiv were couched in the following terms:-

“7. General Conditions:-

(xiii) Candidate will be responsible for any mistake committed while filling-in application form. Recruitment Director will not be responsible in any manner in this regard.

(xiv) Candidates are advised to fill-in the form themselves while taking help of Cyber Cafe Attendant at the time of applying online, Once the form is approved after filling-in the date in the application form, no changes will be allowed and no other chance will be given. No request in this regard will be accepted by the office.”

The language employed in the offending Clauses was categoric and unambiguous. Candidates were cautioned at the very outset that they would be responsible for any mistake committed while filling up the application forms. Furthermore, candidates had been advised to fill up the form themselves and without taking help of a Cyber Cafe Attendant. It was also categorically recited that once the form is filled up then no changes will be allowed subsequently and any request in such regard would not be accepted.

It would be inferred that the petitioner at the stage of submitting his online application form for the post in question, had read out each and every term contained in the advertisement and had understood the same.

As per scheme of selection, a written test was to be held and to facilitate participation in the same, Admit Cards were to be

issued to the candidates. It is conceded by the counsel that an admit card was issued to the petitioner and in which the category mentioned, was General and not handicapped category. Petitioner appeared in the written examination, on the strength of such Admit Card reflecting his category to be General. He stated to have scored 215 marks in the written examination.

Apparently, the candidates who applied in the handicapped category, have scored lower merit position i.e. 202 marks.

The petitioner having taken his chance and having participated in the process of selection as a general candidate is now attempting to take a somersault and prays for a change in category and for his candidature to be considered under the handicapped category. The same would not be permissible in law.

Strangely, the petitioner had chosen not to even agitate the matter at the stage of issuance of the Admit Card, which reflected his category to be General and not handicapped. The claim set up in the instant petition is clearly an afterthought.

Challenge to General Condition No.7 Sub Clause xiii & xiv also cannot be entertained at this stage. This view is being taken on two counts.

The advertisement was put in public domain on 22.11.2015.

In case the petitioner who is an educated person was aggrieved of any term and condition contained in the advertisement it was open for him to have raised a challenge to the same at the very threshold.

Having applied in response to the advertisement and having even participated in the process of selection, it would not be open for the petitioner to raise a challenge to a term and condition of the advertisement after declaration of the result.

Even otherwise, the rationale and objective of the offending General Condition No.7 Sub Clause xiii & xiv is well founded. If request for change of category etc. are entertained at subsequent stages, there would never be a finality to the selection process. These are conditions which lend a finality and purity to the selection process and have to be adhered to and construed in a strict manner.

For the reasons recorded above, there is no merit in the petition and the same is dismissed.

(TEJINDER SINGH DHINDSA)

JUDGE

13.09.2017

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Whether speaking/reasoned : ***Yes/No***

Whether reportable : ***Yes/No***