

Sr. No.106

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

CWP No.2089 of 2017 (O&M)

Date of Decision:04.12.2017

Rana Satpal Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present:- Ms. G.K.Mann, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

CM No.11543-CWP of 2017

Application is allowed, as prayed for.

Documents at Annexures P-16 and P-17 are taken on
record.

CM No.15475-CWP of 2017

Application is allowed, as prayed for.

The accompanying public notice/advertisement is
taken on record as Annexure P-18.

Application disposed of.

Main Case

Petitioner has filed the instant petition being aggrieved

of the action of the respondent Department of Health Services and Family Welfare, State of Punjab in having denied to him appointment to the post of Block Extension Educator (BEE).

Counsel for the petitioner has been heard at length.

As per pleadings on record, advertisement dated nil was issued by the Baba Farid University of Health Sciences, Faridkot (Annexure P-18) inviting applications for filling up various posts under the Punjab Health Department and Medical Education including 51 posts of Block Extension Educators. In the advertisement, it was indicated that as regards qualifications, rules, conditions and other information the prospective candidates may visit web site www.bfuhs.ac.in. The last date for submission of application forms was 15.06.2016.

Counsel representing the petitioner submits that the information uploaded on the concerned web site was in terms of memo dated 09.05.2016 placed on record at Annexure P-7. Perusal of memo dated 09.05.2016 (Annexure P-7) would reveal that insofar as the post of Block Extension Educator is concerned the following basic and professional qualifications were prescribed:-

Block Extension Educator	10300-34800+3600	(i) Should be a Graduate from a recognized university or institution and (ii) Should possess a diploma in Journalism from a recognized university or institution.
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Further more it was stipulated that eligible candidates would have to appear in a written test and on the basis of which the

final merit was to be prepared followed by a process of counselling in which verification of the documents in support of qualifications was to be carried out.

It is the case of the petitioner himself that he has qualified the M.A.Part-I examination in Journalism and had applied for the post of Block Extension Educator. He had even appeared in the written examination and in which he has secured 445 marks out of 800 marks. It is the contention of the counsel that as per marks obtained in the written examination, petitioner would fall within the zone of appointment to the post in question.

Counsel argues that even though no specific order has been passed rejecting the claim of the petitioner but it has been orally informed that he is being considered ineligible for the post on account of not possessing the requisite prescribed qualifications.

It is not in dispute that for the post of Block Extension Educator apart from the candidate being a graduate, possessing a Diploma in Journalism from a recognized University or Institution was also an essential qualification.

Counsel would strenuously argue that the qualifications of M.A.Part-I in Journalism and Mass Communication possessed by the petitioner is equal to Post Graduate Diploma in Journalism. In support of such contention, counsel states that the syllabus for both these courses is the same and even the question paper of M.A.Part-I in Journalism and Diploma in Journalism are identical. It is urged that the qualifications possessed by the petitioner have to be

treated as an equivalent to the qualifications prescribed in the advertisement and by virtue of the merit position secured in the written examination, petitioner has a vested right to be appointed as a Block Extension Educator.

In the considered view of this Court, the claim set forth in the petition is ill founded.

This Court lacks the expertise as regards entering into the arena of equivalence of qualifications. It is a subject matter for the experts to go into. No material/documents have been placed on record on the basis of which this Court would conclusively record a finding that the qualifications possessed by the petitioner that M.A.Part-I in Journalism is equivalent to a Diploma in Journalism and as prescribed in the advertisement.

Even otherwise, it is for the employer to prescribe qualifications for appointment to a particular post. Whenever specific qualifications are prescribed for a post, the incumbent for such post would not be vested with an inherent right to seek the benefit of equivalent or matching qualifications in the absence of a clear stipulation inserted in the advertisement indicating the power that the State or the Commission/Recruitment Agency as the case may be to consider and appoint such incumbents possessing such qualifications. In the advertisement in question, the prescribed essential qualifications was for a candidate to be a Graduate and to possess a Diploma in Journalism from a recognized University or Institution. There was no stipulation in the advertisement to treat the holder of an equivalent qualifications

to be also eligible.

Under such circumstances, even assuming that the petitioner holds a matching qualification, he cannot compel the respondents to treat the petitioner as eligible for appointment to the post in question.

In taking such view, this Court would draw support from a Division Bench Judgment of this Court in ***Ajay Kumar Vs. State of Haryana 2004 (1) SCT 888*** and the relevant portion of the judgment reads in the following terms:

“Learned counsel for the petitioner has contended that the qualifications/degree in Bachelor of Journalism and Mass Communication from Maharishi Dayanand University, Rohtak, is being treated equivalent to the Post Graduate Diploma of the Kurukshetra University. In this regard, he relied upon a letter issued by the Assistant Registrar of Maharishi Dayanand University dated 04.08.2003. This letter is of no help to the petitioner. It is for the employer to prescribe essential qualifications for appointment to a particular post. The Government in its wisdom provided the essential qualifications specifically excluding the expression “or any other course equivalent to the prescribed qualifications.” Absence of this clause clearly indicates that the State and the Commission did not desire to appoint people possessing equivalent qualifications. A clause of equivalence as treated before academic purpose may not essentially be true or universally applicable for

employment purposes as well. In the field of employment a specific stipulation should be provided in the rules/instructions and/or the equivalent to the specified qualifications. Nothing has been brought to our notice which vests the respondents with such power in relation to the present advertisement. On the other hand by very absence of such clause, exclusion of such power is clear. We are of the considered view that the petitioner cannot compel the respondents to treat his degree of his Bachelor of Journalism and Mass Communication from Maharishi Dayanand University, Rohtak as a Post Graduate Diploma for the purpose of satisfying the prescribed essential qualifications.”

By following a dictum laid down by the Division Bench in *Ajay Kumar's case (supra)*, the prayer of the petitioner to be treated as eligible on the basis of his qualifications possessed i.e. M.A.Part-I in Journalism as opposed to the prescribed essential qualifications of Diploma in Journalism cannot be accepted.

During the course of arguments, counsel has raised a submission that one Sandeep Kaur Daughter of Jasbir Singh who also qualified a Post Graduate in Journalism has been selected and appointed. The contention raised during the course of hearing is not supported by any pleadings on record. Even if there be an instance of a candidate not possessing the requisite prescribed qualifications having been appointed, it would be a case of an illegal appointment.

It would not be open for the petitioner to cite such an

instance to seek directions from this Court for the respondents to perpetuate such illegality.

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

Pending application, if any, shall also stands disposed of.

Disposed of.

04.12.2017
vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes