

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

CWP No. 4037 of 2014 (O&M)
Date of decision: 1.5.2017

Gurpreet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. DS Gandhi, Advocate,
for the petitioner.

Mr. L.S. Virk, Additional Advocate General, Punjab.

Ms. Harmanpreet Kaur (Simmi), Advocate,
for respondents No. 4 to 6, 11, 12 and 14 to 17.

Mr. H.S. Aujla, Advocate, for
Mr. N.S. Dandiwal, Advocate,
for respondent No. 8.

JAISHREE THAKUR, J.

1. The petitioner is seeking appointment on the post of Vocational Mistress (Garment Making).

2. The respondents issued public notice on 23.9.2009, advertising 78 posts of Vocational Master and Mistress in Garment Making. The petitioner applied thereto under the general category and was placed at serial No. 431 in the provisional merit list with 55.5678 % marks. Selected candidates on the merit list were asked to be present for counseling at the office of Director, SCERT, Punjab on 29.9.2011. The petitioner was not selected and thereafter, she approached the respondents for appointment.

Since, no action was taken thereto, she filed a writ petition in this Court, being CWP No. 17782 of 2012 in which direction was given to the respondents to decide her claim. Since the orders passed in the writ petition were not complied, a contempt petition was preferred. During the pendency of the contempt petition a speaking order dated 30.4.2013 was issued rejecting the candidature of the petitioner. It was stated that the experience certificate produced by the petitioner was not in consonance with the terms of advertisement dated 23.9.2009. The instant writ petition has been filed seeking to challenge the order dated 30.4.2013.

3. Mr. D.S. Gandhi, learned counsel appearing on behalf of the petitioner, contends that the persons having less marks than the petitioner have been appointed, ignoring the claim of the petitioner who had adequate number of marks. It is contended that the petitioner had necessary experience as well having worked at 'Sandhu Tailors' who had given a certificate that Miss Gurpreet Kaur, petitioner herein, had been working there from 1.7.1992 to 3.6.1998 and the said certificate has been ignored.

4. Per contra, learned counsel appearing on behalf of the respective respondents have reiterated their stand taken in the impugned order that the petitioner did not have the experience.

5. I have heard learned counsel for the parties and have also perused the record of the case.

6. The short question that arises for determination is, whether the petitioner's experience certificate should have been taken into consideration

or not?

7. Admittedly, the advertisement was issued inviting applications for filling up posts of Vocational Master and Mistress and the petitioner applied therein. As per the advertisement, the qualification prescribed for an applicant applying for the vocational Master/Mistresses in Garment Making was as under:-

“3 years Diploma from the State Board of Technical Education in the concerned Trade along with 3 years experience in Teaching or Practical work in govt. or govt. recognized or well known registered Institute duly countersigned by the competent authority.”

8. The candidature of the petitioner, though having the requisite educational qualification, was rejected only on account of the fact that she had obtained her practical working experience from “Sandhu Tailor, Amritsar”. The respondents declined to entertain the said certificate on the ground that establishment is neither government nor affiliated to the government.

9. Learned counsel for the petitioner contends that the certificate as issued has been countersigned by the Labour Inspector which would mean that her experience has been recognized. The impugned order dated 30.4.2013 rejected the experience certificate submitted by the petitioner only on the ground that during the verification it was found that this Institute had not maintained any attendance register, EPF record and salary register etc.

and did not submit any other record. However, what could not be denied is that the experience certificate is duly countersigned by the official of the Department. Annexure P/13 is the experience certificate issued by Sandhu Tailors and Annexure P/14 is registration of Sandhu Tailors with the Industries Department showing old SSI Registration No. 16/01/26214/PMT/SSI dated 19.1.1995. A reading of the advertisement would show that three years experience of teaching or practical working from a government/government recognized/reputed Institutions would be requirement, which experience certificate must be countersigned by the competent authority. The 'competent authority', as mentioned above, has not been specified, therefore, the Labour Inspector, who supervises the functioning of any Institute within his jurisdiction would, therefore, be the competent person. Once, the experience certificate produced by the petitioner has been countersigned by a competent person, it would not be justifiable in holding that the persons did not have the requisite experience. It is not in dispute that the persons having lower in merit than the petitioner have been given appointment. Denying appointment would amount to violation of Articles 14 and 16 of the Constitution of India. This Court is informed that a post of Vocational Mistress is still lying vacant.

10. Therefore, on the basis of equity, the writ petition is allowed holding that the petitioner is entitled to be appointed against the post of Vocational Mistress (Garment Making). The respondents are directed to appoint the petitioner on the post of Vocational Mistress (Garment Making)

and also grant her seniority from the date when persons of her batch were appointed along with other notional benefits. However, it is made clear that she would not be entitled for any salary/wage for the period she has not rendered any service.

1.5.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No