

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

**CWP No. 4266 of 2014
Date of Decision: May 17, 2017**

Amandeep Singh

...Petitioner

Versus

State of Punjab & Others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. G. S. Guri, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

JAISHREE THAKUR, J.

1. The petitioner herein seeks a writ in the nature of Mandamus directing the respondents to consider his candidature for the post of Counsellor as advertised in Daily Newspaper on 07.09.2012.
2. In brief, the facts are that the petitioner, being a Law Graduate, applied for the post of Counsellor pursuant to an advertisement dated 07.09.2012 (Annexure P-1). He was called for scrutiny of the documents to be held on 11.02.2014 and for an interview to be held on 12.02.2014. The interview was postponed and was finally held on 20.02.2014. However, the candidature of the petitioner was not accepted as he did not fulfill the qualification as per the new advertisement issued on 29.05.2013. It is contended that after the advertisement was published on 07.09.2012, the required qualifications have been changed in the second public notice that was issued on 29.05.2013. Aggrieved, the instant writ petition has been

filed.

3. Learned counsel for the petitioner contends that for the selection process, the candidature of the petitioner ought to have been considered under the first advertisement and not under the new advertisement which prescribed changed qualifications/conditions. Learned counsel for the petitioner further contends that the action of the respondents in changing the qualification would amount to changing the rules of the game which is impermissible in view of the judgment rendered by the Apex Court in *K. Manjusree vs. State of Andhra Pradesh & Another, 2008 (3) SCC 512*.

4. Per contra, learned counsel for the respondents-State contends that an advertisement was issued for recruitment of a Counsellor under the centrally sponsored Integrated Child Protection Scheme (ICPS). It included one post of Counsellor as well as one post of Legal-cum-Probation Officer. It is submitted that a Counsellor provides counseling services to children in conflict with law and children in need of care and protection as well as their parents and families and the Counsellor also works with the CWC and JJB at District level as and when required. The eligibility criteria for these posts are approved by the State Government. However, on account of an inadvertent mistake, a Degree in Law was shown as essential qualification for the post of Counsellor. In fact, for both the posts, i.e. Counsellor and Legal-cum-Probation Officer, the qualifications were the same. On account of inadvertent mistake, it became necessary to issue a revised advertisement giving the correct qualifications. Therefore, the petitioner, not having the necessary qualification, would not be entitled to consideration for the post of Counsellor.

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

6. It is not in dispute that an advertisement dated 07.09.2012 was issued, wherein, the qualifications given for the post of Legal-cum-Probation Officer and Counsellor were the same. A portion of the said advertisement is reproduced herein below:

Name of Post	Essential Qualification	No. of Posts required per districts	Gross Emoluments per month	Total Posts required
xxxx	xxxx	xxxx	xxxx	xxxx
xxxx	xxxx	xxxx	xxxx	xxxx
Legal-cum-Probation Officer	Graduate in Law from any recognized University with minimum 55% marks. Working knowledge of computer, fluency in English and knowledge of Punjabi. Preference will be given to experience in handling legal matters.	1	Rs. 12,000/-	20
Counsellor	Graduate in Law from any recognized University with minimum 55% marks. Working knowledge of computer, fluency in English and knowledge of Punjabi. Preference will be given to experience in handling legal matters.	1	Rs. 12,000/-	20
xxxx	xxxx	xxxx	xxxx	xxxx

7. Subsequently, the Department of Social Security and Women and Child Development, Punjab issued another advertisement which is Annexure R-2. This advertisement invited applications for the post of Counsellor only whereas, the initial advertisement invited applications for

the post of Legal-cum-Probation Officer and Counsellor. In the fresh advertisement, it was clearly mentioned that *“this advertisement is published for the posts of District Child Protection Society in continuation to the advertisement published in the Tribune, Dainik Bhashkar and Ajit dated 07.09.2012. In this regard, application for the post of Counsellor are invited afresh.”*

8. In the fresh advertisement, the essential qualification for the post of Counsellor was shown as a Masters Degree in Social Work/Psychology/Child Development as per the criteria prescribed by the State Government.

9. The petitioner's claim for consideration under the first advertisement issued on 07.09.2012 for the post of Counsellor is without any merit. No doubt, the qualification in the advertisement dated 07.09.2012 was given as a Law Graduate from any recognized University, but before the interviews were held, a necessary corrigendum was issued which clearly specified that this advertisement was in continuation to the earlier advertisement and applications for the post of Counsellor were invited afresh. Once a corrigendum had been issued which clearly invited fresh applications for the post of Counsellor to be in consonance with the educational qualifications required for the post, he would only have a right for consideration if he had the necessary qualifications.

10. In the case relied upon by the petitioner, challenge was made to the merit list that was prepared for appointment to the post of District & Sessions Judges (Grade-II), wherein, a new requirement of minimum marks for interview was prescribed. The Apex Court held that introduction of the requirement of minimum marks for interview, after the entire selection

process (consisting of written examination and interview) was completed, would amount to changing the rules of the game after the game was played which is clearly impermissible. However, in the instant case, what has to be noted is that after the first advertisement was issued, immediately thereafter, on finding the mistake that had crept in providing the essential qualifications for the post of Counsellor, a second advertisement/corrigendum was published clearly stating thereunder that this would be read in continuation to the advertisement issued on 07.09.2012. 'Fresh applications' for the post of Counsellor were invited. The petitioner participated in the interview on the basis of his qualification and it is not as if he undertook a written test as in the case of ***K. Manjusree (supra)***. Once the Department found out about the mistake that had incurred in the qualifications, it was well within their right to amend the qualifications and bring it in consonance with the requirements.

11. The fresh advertisement was issued before the interviews were held. The petitioner herein has not been able to establish or demonstrate that there is any illegality or infirmity in the action of the respondents in denying him appointment.

12. In view of the above discussion, this Court is of the opinion that no fundamental right of the petitioner stood violated for invoking the extraordinary jurisdiction of this Court.

13. Hence, the writ petition is dismissed.

May 17, 2017

Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No