

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA no. 1668 of 2017 (O&M)  
Date of Decision :08.09.2017

Parmila

....Appellant(s)

Versus

Dr. Devinder Kumar and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR JUSTICE RAJ SHEKHAR ATTRI

Present : Mr.Sunil Nehra, Advocate for the appellant(s)

**MAHESH GROVER, J.(ORAL)**

This appeal is directed against the judgment of the learned Single Judge dated 16.8.2017. Few posts of Psychiatric Social Worker were advertised with the following essential qualifications:-

*“(i) M. Phil in Sociology; or Social Worker or Postgraduate diploma in Psychiatric Social Work;*

*Or  
(ii) M.A. in Sociology or Social work;*

*(iii) Hindi/Sanskrit upto Matric standard”.*

Consequently vide a corrigendum issued, again on the website, the following addition was added in the eligibility conditions:-

*“One year experience in Social Work or Research”.*

The criteria for allocating marks adopted by the Committee and

disclosed to all the aspirants is also extracted herebelow:-

| Sr.no.         | Name of the candidate alongwith father's name | Addresses | Basic qualification marks 925% of marks obtained) | Higher qualification = 3 marks | Additional 1 qualification = 3 marks | Experience= % marks (½ marks per year) | Extra curricular activities | Written test marks (15% of percentage obtained in the written test) | Interview marks = 15 | Grand Total = 75 marks |
|----------------|-----------------------------------------------|-----------|---------------------------------------------------|--------------------------------|--------------------------------------|----------------------------------------|-----------------------------|---------------------------------------------------------------------|----------------------|------------------------|
| 1              | 2                                             | 3         | 4                                                 | 5                              | 6                                    | 7                                      | 8                           | 9                                                                   | 10                   | 11                     |
| Marks allotted |                                               |           | 25                                                | 10                             | 3                                    | 5                                      | 2                           | 15                                                                  | 15                   | 75                     |

The criteria adopted by the Selection Committee was further clarified by giving examples as follows:-

“1. Example:

“Each higher qualification above the basic qualification in the same field will be awarded 5 marks each and maximum upto 10 marks for higher qualification. Ph.D. Candidate will be awarded maximum 10 marks. (The order of categories of qualification is secondary (Matric), senior secondary (10+2), graduation, Post Graduation, M.Phil and Ph.D.).

Note: The Higher qualification will be considered in the same field only.

2. Experience: 1/2 mark per year of experience and maximum upto 5 marks.

Note: Experience should have been obtained after acquiring the minimum educational qualification and not prior to that stage.

3. Additional Qualification in any field: 2 marks.

*Note: Additional qualification in the related field as decided by the committee at time of interview (for diploma level=1 marks,*

*Graduation Level=2 marks and above=3 marks).*

*4. Extra Curricular activities: (2 marks).*

*Participation/Position certificate in National Level/State Level/Sports or Blood Donation Certificate-at least four times or Participation in NCC/NSS Camps etc.*

*Written Test: 15 marks (15% of the marks obtained in the written test).*

*5. Interview: 15 marks*

*Note: The posts in which the number of applicants is less than 100, then no written test will be held in that case the interview will be of 25 marks.*

*Note: No. of the candidates called for interview will be five times the number of the posts advertised in the order of merit of written test.”*

The appellant before us is a Post Graduate (MA) in Sociology whereas respondent no.1- writ petitioner (hereinafter known as 'writ petitioner') is M.Phil and a Ph.D.

In the selected list after the interview the appellant was placed at Sr. No.21 whereas writ petitioner was placed at Sr. no.23 consequent to which the appellant was appointed.

The position in marks as also the marks allocated in the selection process for both the appellant and the writ petitioner are extracted

| S.no | Name of the candidates alongwith Father's name | Catego ry | Basic Qualifi cation= 25 marks (25% of marks obtaine d) | Higher qualific ation = 10 marks | Additio nal qualific ation = 3 marks | Experi ence = 6 marks (2.5 marks per year) | Extra curricu lar activiti es maxim um = 2 marks | Total | Intervi ew Marks = 25 | Grand total = 70 marks |
|------|------------------------------------------------|-----------|---------------------------------------------------------|----------------------------------|--------------------------------------|--------------------------------------------|--------------------------------------------------|-------|-----------------------|------------------------|
| 1.   | 2                                              | 3         | 4                                                       | 5                                | 6                                    | 7                                          | 8                                                | 9     | 10                    | 11                     |
| 21   | Parmila D/o Mahabir                            | Gen       | 19.37                                                   | 0                                | 0                                    | 0                                          | 2                                                | 21.37 | 20                    | 41.37                  |
| 23   | Devinder Kumar s/o Zile Singh                  | Gen       | 14.93                                                   | 5                                | 1+1                                  | 5                                          | 0                                                | 26.93 | 14                    | 40.93                  |

The writ petitioner came to this Court questioning the selection of the appellant to contend that since he was having higher qualification than the selected candidate i.e the appellant he has been unduly ignored on account of deprivation of the marks that he was entitled to as per the criteria. It was averred by him that he was MA/M.Phil(Sociology) and holder of Doctorate in the very same subject which would entitle him to higher marks than the basic qualification.

Learned Single Judge accepted the petition with costs which is now a cause of grievance to the appellant who contends that a perusal of the advertisement and the prescription of eligibility criteria would indicate that M.Phil MA in Sociology or social work have been equated together to form the basic qualification in which eventuality the respondent could merely get 5 marks which indeed were given to him and no further marks for any other qualification he possessed. It has been urged that for the qualification of M.Phil he was given 2 marks which are intended for an additional qualification as per the criteria extracted above. Extensive reliance has been

placed on the observations of the learned Single Judge contained in para 10

of the impugned order to contend that even the learned Single Judge accepted this plea of the appellant and there would thus be no occasion to accept the prayer of the writ petitioner once this finding has been recorded. Para 10 of the impugned order is extracted herebelow:-

“10. Having considered the aforesaid arguments, in the opinion of this Court, this petition deserves to be allowed, because it is very obvious that the Selection Committee treated M.A. and M.Phil degrees on par with each other, simply because the basic qualification required is shown to be M.Phil in Sociology or M.A. in Sociology. Admittedly, respondent no. 4 does not possess an M.Phil degree and is only a Master of Arts in Sociology (if her degree from the CMJ University, Meghalaya, is at all recognized by the University Grants Commission). Hence, had both, the petitioner and respondent no. 4, possessed M.Phil degrees and the petitioner had then been awarded only 05 marks for a higher qualification, i.e. for possessing a Ph.D. degree as was the other selected candidate (Jogender Singh), the petitioner possibly may not have had any grievance qua lesser marks awarded to him for his Ph.D. degree. The petitioner having both, an M.Phil and a Ph.D. degree to his credit after his post graduation (M.A.), he was necessarily to be awarded 05 marks for each of

those two degrees, both those qualifications being more than the qualification possessed by respondent no. 4, with the basic eligibility qualification to be treated as an M.A. degree.”

We have heard learned counsel for the appellant and are not in agreement with the contentions raised before us. A perusal of the eligibility condition does not offer any such inference as learned counsel for the appellant would desire from us.

Learned counsel for the appellant contends that M.Phil has been treated as additional qualification and marks given but we dis-agree with this contention as additional qualification would mean qualification in addition to the basic qualification such as the ones reflected in the eligibility criteria itself i.e diploma in Psychiatric social work or diploma in social work while the higher qualification would mean acquiring a higher degree such as M.Phil and Ph.D. There can absolutely be no quarrel that M.Phil and Ph.D are higher qualification than M.A and cannot be termed additional qualification and the criteria which we extract herebelow even at the cost of repetition clarifies the concept completely.

*“Each higher qualification above the basic qualification in the same field will be awarded 5 marks each and maximum upto 10 marks for higher qualification. Ph.D. Candidate will be awarded maximum 10 marks. (The order of categories of qualification is secondary (Matric), senior secondary (10+2), graduation, Post Graduation, M.Phil and Ph.D.).*

*Note: The Higher qualification will be*

*considered in the same field only.”*

It says each higher qualification above the basic qualification in the same field “will be awarded 5 marks each and marks upto 10 marks” Ph.D candidate will be awarded 20 marks. There is no ambiguity in this. The writ petitioner is two notches above the appellant having M.Phil and Ph.D for which he would be entitled to 10 marks (5 marks each) and had the committee followed this criteria faithfully, that would have resulted in awarding 10 marks to the writ petitioner and entitled him to higher position in merit than the appellant. We thus do not agree with the findings recorded by the learned Single Judge in para 10 of the impugned judgment in view of the clarification that we have noticed above. In conclusion the learned Single Judge has accepted the plea of the writ petitioner with which we have no disagreement and thus finding the appeal to be without any merit, decline interference. Hence, instant appeal is hereby dismissed.

At this stage, learned counsel for the appellant contends that the appellant has worked for 3 years and there are vacancies available in other colleges.

We would not like to comment on this aspect but leave it open to the respondents to consider the plea of the appellant sympathetically.

**(Mahesh Grover)**  
**Judge**

08.09.2017  
rekha

**(Raj Shekhar Attri)**  
**Judge**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No