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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14306-2016 [O&M]

Date of Decision : May 17th, 2018

Sarbjit Singh

.... Petitioner.

Versus

State of Punjab and others

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. D.S. Kahlon, Advocate
for the petitioner.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab
for the respondents.

SHEKHER DHAWAN, J.

Present writ petition under Article 226/ 227 of the Constitution of India is for issuance of a writ in the nature of certiorari to set aside/ quash the impugned order dated 04.07.2016 (Annexure P/7), whereby the claim of the petitioner for appointment to the post of Lecturer (History) has been rejected by respondent No.5.

2. Sarbjit Singh, petitioner herein, is an unsuccessful candidate for selection to the post of Lecturer (History). In order to fill up 90 posts of Lecturers (History) in the Punjab Education Department, the Directorate Education Recruitment (hereinafter referred to as “**the Recruitment Directorate**”) issued an advertisement on 20.11.2015 (Annexure P/1). The petitioner being one of the aspirants, applied online for the post of

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Lecturer (History) and paid the prescribed fee, under Backward Class category. He was allotted Registration No. 30348269. After verifying the application of the petitioner, the Recruitment Directorate issued admit card to the petitioner and he was called for appearing in the examination. He was assigned Roll No.741787490. For the purpose of selection, two papers, i.e., Paper-I and Paper-II were scheduled to be held on 14.02.2016 and 15.02.2016. On 14.2.2016, the petitioner did appear in Paper-I (Aptitude) and while appearing in Paper-II (History) on 15.2.2016, the petitioner had filled all the columns except No. 8 (Series) in hurry. The result of the written test was declared by the Recruitment Directorate on 14.03.2016 (Annexure P/2), but the petitioner's name did not figure in the said result under B.C. Category. On enquiry, the petitioner was shocked to know that his Paper-II was not checked by the respondents.

3. Feeling aggrieved by the aforesaid action of the Recruitment Directorate, the petitioner filed a writ petition bearing CWP-6198-2016 before this Court *inter-alia* praying to direct the respondents to check his Paper II (History) paper held on 15.2.2016 as the same was not checked with a further prayer to allow him to attend the selection process. The said writ petition was allowed by this Court vide order dated 09.05.2016. The concluding paragraph of the said order is extracted below:-

“ Consequently, while allowing the present petition, a direction is issued to the respondents to consider the petitioner for the post of Lecturer (History) as per merit for which the recruitment is still in process and has not been concluded so far since the result is yet to be declared and recommendations made to the State Government to offer appointments to the

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successful candidates by treating the petitioner's OMR sheet in History Paper-II as valid.”

4. Learned counsel for the petitioner contended that after the passing of order dated 09.05.2016 (Annexure P/3) on 17.5.2016, the petitioner received a message on his mobile phone to attend the selection procedure for counselling scheduled for 18.5.2016. The petitioner appeared in the counselling and submitted all the documents except the final degree of B.Ed. He submitted that the final degree of B.Ed. and second semester marks sheet would be submitted later on because due to migration from Guru Nanak Dev University to Punjabi University, he could not get the same. As per the petitioner, he got the final degree of B.Ed. Degree and even passed the same in May, 2015. Copy of the result and marks sheet of semester I and II of B.Ed. are on the file as Annexures P/4 to P/6. He further contended that the respondents wrongly passed the impugned order dated 4.7.2016 whereby the petitioner was declined appointment to the post of Lecturer (History), though the petitioner was fully eligible.

5. The case of respondents, as set-up in the reply, is that as per the advertisement issued by the Recruitment Directorate dated 20.11.2015 (Annexure R-1), 90 posts of Lecturer (History) were advertised. The petitioner applied as a backward class category candidate and was allotted registration No. 30348269. The basic qualifications required advertised for the above said posts was as under:

“The prospective candidate should have possessed a valid

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Master's degree in History (M.A. History) and Bachelor's degree in Education (B.Ed) from a recognized University.”

6. In the said advertisement, dated 20.11.2015, it was specifically stated as under:-

“The candidates' certificates of academic/ professional qualifications, certificate of various categories for claiming benefit of reservation like S.C., B.C., L.D.C., Sports gradation, Handicap and Freedom fighter and other requisite certificate etc. must have been issued prior to the last date of submission of application forms i.e.12.12.2015. The certificate issued after the expiry of the last date of submission of application form will not be considered.”

7. Subsequently, the Recruitment Directorate issued a public notice dated 21.03.2016 (Annexure R/2) for scrutiny of documents for these posts and in the said public notice, the candidates were required to be personally present for scrutiny of following documents :-

1. Scrutiny from (Downloaded from website).
2. Registration form downloaded from website.
3. 10th certificate regarding Date of Birth.
4. Proof of Punjabi pass (10th or higher level)
5. DMC and degree of graduation.
6. DMC and degree of post-graduation.
7. DMC and degree of B.Ed.
8. Certificate regarding category.
9. Proof of Punjab residence (Those candidates who have applied in reserve category).
10. Self-declaration regarding income. (Those candidates who

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have applied in Backward class category).

8. As per condition No. 4 of the public notice dated 21.03.2016 (Annexure R-2) it was mentioned as under :-

“4. The sub-committees constituted for the scrutiny of documents will cancel the candidature of such candidates at the same time if any documents were incomplete.”

9. Learned State counsel submitted that the last date, as prescribed in the advertisement was sacrosanct and it was universally applicable to all the candidates. The respondent department finalised the selection process through the Recruitment Directorate and a Scrutiny committee was constituted for screening of documents/certificates of the applicants. The department considered the candidature of only those applicants, who fulfilled the requisite conditions/qualifications prescribed for the advertised posts. The candidature of the petitioner was lawfully rejected after considering the documents submitted by him as he had attached provisional B.Ed. Semester I certificate and downloaded copy of 2nd semester (RL-R) without official seal/signature and had put his own signatures and no B.Ed. Degree was produced by him before Scrutiny Committee. It was obligatory on the part of all the candidates, including the present petitioner, to submit the documents/certificates according to conditions detailed in the advertisement and the public notice.

10. Learned State counsel further submitted that the petitioner, like other applicants, was to produce the documents including B.Ed. Degree, by the last date, but the petitioner failed to produce the same and as such, he was not eligible for appointment to the post of Lecturer

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(History) as he did not fulfill the requisite conditions as applicable to all the candidates and he was thus, not selected. Moreso, in general conditions No. 7(xvi) of the advertisement, dated 21.11.2015 (Annexure P/1), it was specifically mentioned that:-

“The decision of Recruitment Directorate regarding this recruitment will be final and applicable to all”.

11. As such, the decision of the Recruitment Directorate is final. Contention was also raised that there may be number of such candidates seeking similar relief and that way, the recruitment process would be unending. By now, the recruitment process is already over and appointment letters have also been issued to the selected candidates. The present petition is without any merit and the same deserves to be dismissed.

12. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that certain facts are not disputed that the present petitioner was a candidate for appointment to the post of Lecturer (History) and had applied online pursuant to the advertisement dated 20.11.2015 (Annexure P/1) and as per the advertisement condition, the candidates were to be Post Graduate in History and B.Ed. to be eligible before the last date of submission of applications i.e., 12.12.2015. The terms and conditions laid down in the advertisement, Annexure P/1, were applicable to all the candidates including the present petitioner as well as it was a case of appointment to the public post. Admittedly, the petitioner failed to produce

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B.Ed. Degree and detailed marks certificate at the time of counselling, rather he had only attached provisional B.Ed. Semester-I certificate and downloaded copy of 2nd semester (RL-R) without official seal/signature and had put his own signatures and no B.Ed. Degree was produced by him. As such, the case of the petitioner was rightly rejected by the Recruitment Directorate and the Scrutiny Committee. Law on the point is settled that the conditions laid down in the advertisement have force of law and are applicable to all the candidates seeking appointment, because the selection is required to be made in accordance with the terms and conditions prescribed in the advertisement itself. Even no change can be made in the terms and conditions of the advertisement without notifying the same to enable all those prospective candidates, who would have become eligible on the basis of such changed eligibility conditions.

13. It is settled proposition of law that if certain qualifications have been prescribed and last date for receipt of applications and eligibility has been fixed, the candidates cannot be allowed to submit the requisite documents after the cut-off date otherwise, similarly placed persons can also take this plea and the applications of the such candidates, who did not fulfill the conditions laid down in the advertisement, are required to be rejected as the terms and conditions of the advertisement are universally applicable to all the candidates. Similar view was taken by Hon`ble Supreme Court in **Ashok Kumar Sharma and others Vs. Chander Shekhar and another**, 1997 (2) SCT 123 and by Hon`ble Division Bench of this Court in **Anil Kumar and others Vs. State of Haryana and**

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others, 2009 (2) SLR 729. The same thing has happened in the present case.

14. In view of the above, the present writ petition lacks merits and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 17th, 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes