

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

CWP No.21947 of 2012 (O&M)

Date of decision: 20.09.2018

Gurnam Kaur

...Petitioner(s)

Versus

Vice Chancellor, Punjabi University, Patiala and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. JPS Sidhu, Advocate for the petitioner(s).

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Ashish Soi, Advocate for respondent No.1,2 & 4.

Ms. Sunint Kaur, AAG Punjab for respondent No.3.

Mr. Ashish Verma, Advocate for respondent No.5

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks quashing of the advertisement dated 12.10.2012 (Annexure P-10) qua the post of Lecturer Physical Education and order dated 14.01.2014 (Annexure P-11) passed by respondent No.2 whereby the respondent No.5 was appointed as school lecturer physical education.

It is contended that the respondent No.2 had appointed respondent No.5 on *ad hoc* vacancy of physical education teacher which is equivalent to the post of DPE (master cadre post) without issuing public notice as is evident from the information sought by the petitioner under RTI Act. Thereafter, he was appointed as Lecturer, Physical

Education on *ad hoc* basis. The petitioner moved a representation for promotion to the post of Lecturer Physical Education as per service rules as well as resolutions passed by the University whereby similarly placed persons had been appointed as per ratio of 75% by way of internal promotion and 25% by way of direct quota. It is asserted that the petitioner being the only eligible candidate is to be appointed as Lecturer Physical Education as first vacancy is to be filled through internal promotion, however, the respondent No.2 by ignoring the rules have promoted the respondent No.5.

On the other hand, learned counsel for respondent Nos.1, 2 and 4 states that in response to the advertisement issued for the post of Lecturer Physical Education, the petitioner also applied for the same and after having failed she has filed the present petition. The selection was made purely on the basis of merit. Therefore, the present petition deserves to be dismissed on this score alone.

On behalf of respondent No.3, learned State counsel submits that the grievance of the petitioner relates to respondent Nos.1, 2 & 4 therefore, the State has no interest in the matter, whereas, learned counsel for respondent No.5 has submitted that respondent No.5 has been selected in an open and fair selection on the basis of merit. The post in question was advertised in fresh recruitment quota as per the rules and instructions of the syndicate which is supreme authority of the University.

Heard.

The short point which needs determination is that whether

the post in question i.e. Lecturer, Physical Education should have fallen in the promotional quota or otherwise. As per record, the post of Physical Education Teacher was upgraded to the post of Physical Education Lecturer. The post in question was to be filled up on 50-50% pattern i.e. by way of direct recruitment and promotion respectively in the Senior Secondary Model School where the petitioner is working. The criteria of 50-50% was formulated as per Syndicate decision dated 16.09.1998 (Annexure R1/3) as per additional affidavit dated 16.09.2016 of Registrar, Punjabi University filed on behalf of respondent Nos.1 & 2. The petitioner who joined as PTI teacher on *ad hoc* basis on 01.10.2005 was promoted to the post of DPE on 04.05.2011 which is stated to be equivalent to the post of Physical Education Teacher. Earlier, the petitioner had laid challenge to the appointment of respondent No.5 on *ad hoc* basis as Lecturer, Physical Education by filing CWP-2821-2012 which was dismissed in default vide order dated 06.05.2013. The argument of learned counsel for the petitioner that the petitioner is the only eligible candidate and is entitled to be appointed as Lecturer, Physical Education by way of internal promotion lacks merit as the petitioner did not possess the experience of 15 years as per decision of the Syndicate. The petitioner had only possessed 1 year 05 months and 08 days on the post of DPE on the date of advertisement i.e. 12.10.2012, therefore, the the assertion of learned counsel for the petitioner that post ought to have been filled in by way of promotion is of no consequence. Moreover, the petitioner had also appeared in the interview for the post in

question wherein respondent No.5 was selected on the basis of merit and after following proper due procedure. Further, as per record, respondent University is governed by the rules/decision of the syndicate for the selection of the post of lecturer at the school of the university and the post of PTI is not governed by the Punjab State Education Class-II (School Cadre) Service Rules, 1978. There is nothing on record to show that respondent No.5 has been given appointment as backdoor entry his appointment is against the service rules.

Keeping in view the above, finding no merit in the instant petition, the same is dismissed.

20.09.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No