

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

CWP No.21384 of 2015.

Date of Decision: 08.03.2018.

Komal Rani

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Sukhdev Kamboj Advocate,
for the petitioner.

Mr. Amit Mehta, Sr. DAG Punjab.

Mr. Chander Kant Thakur, Advocate for
Mr. Satbir Rathore, Advocate,
for respondent No.4.

JITENDRA CHAUHAN.J.

This writ petition has been filed under Article 226 of the Constitution of India for quashing memo dated 08.07.2015 (Annexure P-14) issued by respondent No.2 vide which the claim of the petitioner for appointment to the post of PTI was rejected.

The Department of School Education had issued an advertisement dated 21.10.2006 for recruitment of 1314 posts of Teachers including 175 posts of Physical Training Instructor (P.T.I.) The recruitment was to be made on the basis of merit which was to be prepared by adding the percentage of marks obtained in basic minimum prescribed academic qualification and basic minimum prescribed

professional qualification. The petitioner possesses qualification of B.A. & B.P.Ed (one year degree course) with score of 61.55 % marks in 10+2 and 74.33% marks in B.P.Ed. Thus, the merit of the petitioner was assessed at 67.94%. The petitioner had attended the counseling in the year 2006. However, she was not considered for the post of PTI on the ground that requisite qualification for the post of PTI was 10+2 with C.P.Ed despite the fact that she possessed qualification of 10+2 with B.PEd. Identically placed candidate, namely, Manjit Singh, who also possessed qualification of B.P.Ed. filed CWP No.451 of 2008. In view of the divergent views of Hon'ble Benches, the matter was referred to Hon'ble the Full Bench wherein vide judgment dated 05.02.2010, it was held that the candidates possessing higher qualification in the same line cannot be excluded from consideration for selection. In view of the observation made by the full bench, the respondents/department issued a public notice dated 23.05.2011 (Annexure P-7) for conducting the counseling for the post of PTI from 23.05.2011 to 27.05.2011. During this period, the petitioner being on family way and subsequently delivery of the child was unable to attend counselling. Thereafter, the respondents again issued a public notice dated 22.06.2011 (Annexure P-9) and conducted a fresh counseling for the posts in question from 06.07.2011 to 11.07.2011 which as per the petitioner escaped her notice on account of her being on bed rest as she had been advised complete bed rest. Respondent No.4 secured

64.01613 marks which is lower than the petitioner however, the

petitioner was not selected despite the fact that the petitioner had already attended the counseling in the year 2006.

On the other hand, it has been contended by the learned State counsel that in compliance of the decision rendered in CWP No.451 of 2008, a public notice (Annexure R-1/2) was issued in leading newspapers for counseling of eligible candidates. Some candidates challenged the public notice dated 23.05.2011 in CWP No.9217 of 2011 (Annexure R-1/3) and the same was quashed with direction to the respondents to issue a fresh public notice. In compliance thereof, a fresh notice (Annexure R-1/4) was issued on 22.06.2011 and the counseling was conducted from 06.07.2011 to 11.07.2011. It was made clear in the public notice dated 22.06.2011 (Annexure R-1/4) that it will be a last chance for counseling and no further opportunity shall be given to any candidate. The petitioner had not attended the counseling which was held from 06.07.2011 to 11.07.2011.

Heard.

From the record, it is clear that the petitioner though higher in merit repeatedly chose not to appear for counselling held from 23.05.2011 to 27.05.2011 and from 06.07.2011 to 11.07.2011 in pursuance of public notice dated 22.06.2011 (Annexure P-9), no relief can be allowed to the petitioner for her own lapse as she repeatedly failed to avail the benefit that had accrued to her in view of her performance. In the absence of any medical evidence in support of her

stance with regard to her health, the same deserves to be ignored. Thus, she is estopped from raising any grouse at this belated stage.

Dismissed.

08.03.2018.

(JITENDRA CHAUHAN)

SN

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No