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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6497-2013

Date of decision-06.03.2018

Balraj Kumar and others

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Deepak Sharma, Advocate for the petitioner.

Mr. Suveer Sheokand, Addl.A.G., Punjab.

Mr. GPS Bal, Advocate for respondent No.5, 8 to 16,
18 to 21 and 24 to 26.

Mr. Gurinderjit Singh, Advocate for respondent Nos.6 and 7.

JITENDRA CHAUHAN, J.

The Department of Education, Government of Punjab, issued a public notice in various newspapers inviting applications from eligible candidates for filling up of 7654 vacancies in Teaching/Non-Teaching cadres on contract basis. Out of the said vacancies, 2106 were notified for the post of Vocational Master/Mistress for various trades and out of those, 78 vacancies were notified for Vocational Master/Mistress (Co-operation trade). As per the advertisement, the following qualification was prescribed for the post of Master/Mistress (Co-operation trade):-

“M.A. (Co-operation/Co-operative Management) **or** M.Sc. (Co-operation and Banking) **or** M.Sc. (Agriculture Marketing and Co-operation) **or** Post Graduate Diploma in Business Administration (Co-operation).”

The petitioners claim themselves to be possessing “Higher Diploma in Cooperative Management”, from the Regional Institute of Cooperative Management, Chandigarh.

It is the case of the petitioners that as the Diploma in Cooperative Management possessed by the petitioners does not exactly match with the set of qualification prescribed, deeming themselves ineligible for the post in question, they did not apply for the same. However, some of the candidates who possessed the same/similar qualification as that of the petitioners, applied for the said post and were ultimately given appointment.

The grouse of the petitioners is that without publishing any corrigendum, the criteria of eligibility has been changed by the respondents inasmuch as the candidates possessing diplomas have been considered for and granted appointments. Learned counsel cites ***Parkash Vir Vs. State of Haryana (P&H) (D.B.), 1992(1) S.C.T. 700***, to contend that the authorities were bound by the conditions laid down in the advertisement and no deviation therefrom was permissible.

On the other hand, learned State counsel submits that the petitioners are estopped from their own act and conduct inasmuch as neither did they apply for the posts in question, nor they laid challenge to the advertisement in question. They have also approached the Court at a belated stage when the entire selection process has culminated and the successful candidates have been given the appointments.

Heard.

It is the admitted case of the petitioners that they did not apply

for the posts in question deeming themselves to be ineligible for want of requisite qualification as laid down in the advertisement in question. The fact that some candidates, including some of their classmates, having the same/similar qualification had applied for the posts in question. Had the petitioners been vigilant, they could have sought clarification well in time from the Department as regards their eligibility. The petitioners moved legal notices, Annexure P-6, after the result had already been declared.

There is no dispute with regard to the law laid down in Parkash Vir's case (supra), however, the same is distinguishable on facts that the petitioners herein have failed to make out a case that the respondents, in fact, changed/alterd the eligibility conditions as set out in the advertisement. In the absence thereof, this Court would refrain itself from interfering in the selection process which already stood culminated in the year 2011.

In ***Chairman, U.P. Jal Nigam Vs. Jaswant Singh, 2007 AIR (SC) 924***, Hon'ble the Supreme Court has held as under:-

“13. In view of the statement of law as summarised above, the respondents are guilty since the respondents has acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter. Therefore, whenever it appears that the claimants lost time or while away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the Court should be

very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration that the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussion on the financial management of the Nigam. Why the Court should come to the rescue of such persons when they themselves are guilty of waiver and acquiescence.”

In **New Delhi Municipal Council Vs. Pan Singh and others,**

2007(2) SCT 601, Hon'ble apex Court has laid down thus:-

“16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein,

did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the Court after a long time. Delay and laches are relevant factors for exercise of equitable jurisdiction.”

In view of the above discussion, this Court is of the considered opinion that the instant petition sans merit and the same is, hereby, dismissed.

(JITENDRA CHAUHAN)
JUDGE

06.03.2018
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No