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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6110-2014

Date of decision-13.09.2018

Shakeela Bano

....Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mohd. Yousaf, Advocate for the petitioners.

Ms. Harsimrat Rai, DAG, Punjab.

None for respondent Nos.4 and 5.

Mr. Madhav Pokhrel, Advocate for respondent Nos.6 to 11.

JITENDRA CHAUHAN, J.

Through this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner is seeking setting aside the order dated 14.11.2013 (Annexure P-12) passed by respondent No.3 vide which the claim of the petitioner for appointment as teaching fellow has been declined. The petitioner also seeks setting aside of notice dated 29.07.2013 (Annexure P-11) issued by respondent No.2 vide which the counselling dated 13.12.2011 and 20.12.2011 had been cancelled.

Learned counsel for the petitioner contends that the respondents had issued an advertisement dated 05.09.2007 for filling up the posts of Teaching Fellows against JBT/ETT posts. The basic qualification and professional qualifications for the said post was 10+2 from any State

recognized Education Board/University and Elementary Teacher Training two years' course of Punjab State or from any other State or Union Territory declared equivalent and recognized by NCTE/Punjab Government. It was stated that, if required number of candidates possessing JBT/ETT or its equivalent qualification would not be available in that eventuality the graduates/post graduates along with B.Ed pass candidates would be considered as per criteria. The mode of selection was on the basis of merit and district wise. Merit was to be prepared by adding the percentage of marks obtained in basic qualification, professional qualification and higher qualification and experience and 5 marks for rural area.

In pursuance to the advertisement, the petitioner applied for the post of teaching fellow under the BC category and secured 58.376 marks. It has been contended that last candidate in the category of the petitioner has secured 58.178 marks and the persons lower in the merit than the petitioner have been selected and they are in service as of now.

On the other hand, learned State counsel contends that the petitioner did not join the first counselling, therefore, she has willfully relinquished her claim. Further, the counselling dated 13.12.2011 was not fair, therefore, the same was cancelled and punitive action was taken against the then District Education Officer, (EE), Sangrur. Since the counselling dated 13.12.2011 was faulty, therefore, the petitioner has not been selected on the post in question.

I have heard learned counsel for the parties and have gone through the case file.

It is to be noticed that the petitioner had applied for the post of JBT/ETT and on the basis of her educational achievement she secured 58.376 marks in the merit. Admittedly, the last candidate in the category of the petitioner secured 58.178 marks. No doubt, the petitioner did not appear in the first counselling, however, she appeared in the second counselling which was held on 13.12.2011. The stand of the State that the counselling was faulty and thus cancelled pales into insignificance particularly in view of the fact that certain candidates selected in the same counselling have been appointed and they are working as on date. The petitioner cannot be treated in a different manner than the selected candidates of second counselling. It is a settled law that similar persons should be treated similarly. Learned State counsel has not refuted the fact that the persons in pursuance to counselling dated 13.12.2011 are in service.

In view of the above, present petition is allowed. The respondent(s) are directed to offer appointment letter to the petitioner for post of teaching fellow within a period of two months from the date of receipt of certified copy of the order.

(JITENDRA CHAUHAN)
JUDGE

13.09.2018

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