

Sr.No.119
IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP NO.270 OF 2018(O&M)
Date of Decision: 11.01.2018

Kamini GautamPetitioner

versus

UOI and othersRespondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present Mr.Ashok Bhardwaj, Advocate for the petitioner.

MAHESH GROVER, J(ORAL)

This petition is directed against the order of the Central Administrative Tribunal, Chandigarh Bench, Chandigarh dated 18.09.2017.

The petitioner questioned the selection of Trained Graduate Teachers, Department of Physical Education by claiming herself to be more meritorious than the persons selected under the sports category.

The applications to fill up 548 posts of various categories of Masters and Mistresses TGT including DPE were invited online out of which two posts were reserved for sports category persons. It was given out that selection would be on the basis of total marks obtained in two qualifying objective type tests. Qualifying marks were set down as 40% for the Scheduled Caste Category candidates and 45% for all other candidates. No interview was contemplated. For the purposes of reference, the relevant clause is extracted here below:-

“Mode of Selection

1. Two objective type tests of 100 marks each will be

conducted. Candidates will be selected on the basis of total marks obtained in two tests. Qualifying marks for each test will be 40% for SC category candidates and 45% for all other candidates. No interview will be conducted. There will be no negative marking.”

The case set up by the petitioner before the Tribunal was that since a consideration was being accorded to the sports category persons, the selection ought to have been made strictly in accordance with the order of preference provided for grading the sports performance and after prescribing the necessary weightage in accordance with the policy of the State without insistence on achieving qualifying marks in the written tests.

It was a specific case that although she did not pass the requisite test but since she had participated in an international sports event, she was entitled to selection to the post straightaway simply on the basis of the gradation criteria in sports.

We notice from the order of the Tribunal that prior to the present litigation but after the selection process had been initiated, some of the candidates under the sports category had filed applications before the Tribunal challenging the same selection process and claiming that preference order be as per the consolidated instructions issued by the Government of India. The respondent had acquiesced to the plea that posts in this category would be filled up amongst the category of international level and national level sports personnel who had qualified the written tests as per details mentioned in the advertisement. It is not the case of the petitioner that the circular indicating the preference of sports category

persons was deviated from. All that has been urged before us is that the condition of written test ought not to have been insisted upon and rather persons with sports category should have been evaluated only on the basis of gradation circular of the Govt. of India.

Learned counsel for the petitioner while arguing on similar lines as that before the Tribunal has placed reliance on a judgment of the Madras High Court passed in **W.P No. 209 of 2015 titled S.Oumapady v. The Govt. of India and others, decided on 17.02.2015** and has rather very avidly argued that the High Court of Madras has in unequivocal terms observed that for Sports category persons, only the gradations as per the Govt. circulars is to be applied with no prescription of a written test.

We have perused the judgment of the Madras High Court and do not find any such observation made by it. It is a distorted argument raised by learned counsel for the petitioner sans any foundation and therefore discarded outrightly.

After hearing learned counsel for the petitioner at some length, we find the petition to be totally frivolous warranting dismissal. The advertisement itself was never questioned by the petitioner. No Rules or Regulations have been shown to indicate that the persons applying under the sports category would be entitled to get appointment without the essentiality of written tests which was to be applied to all categories of aspirants. The only entitlement of a person applying under the reserved sports category is the applicability and benefit of the Govt. circulars providing the manner of gradation to International level / National level and State Level participants which concededly had not been deviated from. Therefore, the

plea of the petitioner that the written test could not have been prescribed as a requisite is neither borne out from any Rule or Regulation or any other material.

Dismissed.

(MAHESH GROVER)
JUDGE

11.01.2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No