IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.7872 of 2018 (O&M)

Date of decision : 17.05.2018

Karanpreet Singh .... Petitioner

vs.

State of Punjab and another .... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. H. S. Saini, Advocate
for the petitioner in C.W.P. No. 7872 of 2018.

Mr. Satinderpal S. Dhaliwal, Advocate
for the petitioner in C.W.P. No. 10939 of 2018.

Mr. Gaurav Garg Dhuriwala, Senior DAG, Punjab.

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DEEPAK SIBAL, J. :

As common questions of fact and law are involved in **C. W. P. No. 10939 of 2018** – **Ravinderjeet Singh vs. State of Punjab and others** and **C. W. P. No. 7872 of 2018** – **Karanpreet Singh vs. State of Punjab and another**, both these petitions are being disposed of through the present common order. However, for the sake of convenience, facts from **C. W. P. No. 7872 of 2018** – **Karanpreet Singh vs. State of Punjab and another** are being referred.

The petitioner challenges Clause 6(i) of Appendix-B of the Punjab Co-operative (Group-B) Service Rules, 2016 (for short – the 2016 Rules) which provides that a candidate should have at least 60% marks in Graduation to be considered eligible for direct appointment to the

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post of Inspector, Co-operative Societies. Advertisement no. 03/2018 dated 14.03.2018 is also challenged which prescribes the same qualification based on the afore-referred Rules.

Mr. H. S. Saini, learned counsel for the petitioner submits that there is no requirement of securing at least 60% marks in Graduation for being considered for appointment for PCS (Executive Branch), which is a Class-I post or for being considered for appointment to the post of Assistant Registrar Co-operative Societies, which is next promotional post from the post of Inspector. That being so, according to him, the impugned Rule is arbitrary, having no rational nexus with the object sought to be achieved and thus violative of Article 14 of the Constitution of India. He further contends that through the impugned Rule, the State has barred meritorious candidates like the petitioner from being even considered and in any case restricted the number of applicants. Such action is termed as arbitrary and against public policy.

Mr. Gaurav Garg Dhuriwala, learned counsel for the State, counters the above arguments by submitting that the State, who is the employer in this case, has every right to lay down qualifications through statutory Rules for appointment to the post in question. He has distinguished the process of selection of Inspectors on one hand and PCS (Executive Branch) and Assistant Registrars on the other. He further contends that for 207 posts of Inspectors, the State has received over 25,000 applications and therefore, it cannot be said that the State has restricted the number of applicants.

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After hearing counsel for the parties, we are of the opinion that the present petition has no merit.

Rule 5 and relevant portion of Appendix-B of the 2016 Rules reads as under :-

> ***"5.*** *Method of appointment, qualification and experience – (1) Appointment to the Service shall be made in the manner specified in Appendix `B'.*
>
> *Provided that if no suitable candidate is available for appointment by direct appointment or by promotion, then appointment to the Service shall be made by transfer of a person holding an analogous post under the State Government or the Government of India.*
>
> *(2) No person shall be appointed to any post in the Service, unless he possesses the qualifications and experience, as specified against that post in Appendix `B'.*
>
> *(3) Appointment to the Service by promotion shall be made on seniority-cum-merit basis, but no person shall have any right to claim promotion on the basis of seniority alone.*
>
> *xx xx xx xx*

APPENDIX `B'

Sr. No.	***Designation of the post***	***Percentage of appointment by***		***Qualification and experience for appointment by***	
		Direct appointment	***Promotion***	***Direct appointment***	***Promotion***
1	***2***	***3***	***4***	***5***	***6***

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6	*Inspector, Cooperative Societies*	*Ninety Five percent*	*Five percent*	***(i)*** *Should possess a Bachelor's degree or equivalent in any stream with minimum sixty percent marks from a recognized university or institution. Graduation with 60% marks in any stream ;* ***(ii)*** *Should have passed Matriculation examination with Punjabi as one of the compulsory or elective subject or any other equivalent examination in Punjabi language ; and* ***(iii)*** *Should have passed a Computer Course at least one hundred and twenty hours with hands on experience in the use of Personal Computer or Information Technology in office productivity applications or Desktop Publishing Applications from a Government recognized institution or reputed institution, which is ISO 9001 certified :* *Provided that if similar course was a part of the curriculum in the Degree Course and the candidate has passed the said course as a subject in his Degree class then the condition of his having passed the above said computer course shall not apply.*	*From amongst the Junior Assistants working under the control of Registrar who fulfill the required educational qualifications specified for the post of Inspector, Cooperative Societies and have an experience of working as such for a minimum period of three years :* *Provided that a Junior Assistant who has been promoted as Inspector Cooperative Societies shall not be allowed to go back to his parent cadre.*

As per the afore-quoted Rule, 95% of the sanctioned posts of Inspectors are required to be filled up by way of direct recruitment and the remaining 5% by promotion. The relevant academic qualifications prescribed for direct recruitment is that a candidate should possess a Bachelor's degree or equivalent in any stream with minimum 60% marks. The State has laid down this qualification for appointment to the post of Inspector, Co-operative Societies, through statutory Rules promulgated under Article 309 of the Constitution of India. An Employer has the right to lay down qualifications for a post after evaluating the requirements thereof provided that such qualifications are not unconstitutional. In the case in hand prescribing at least 60% marks in Graduation, as a condition of eligibility to apply for the post of Inspector is not found by us to be either unreasonable or arbitrary. All that the employer is seeking is that only those candidates who are relatively academically sound, should enter the fray of

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competition. No fault is found in the action of State/employer which aims only to shortlist more meritorious candidates at the entry level, especially when the unrebutted claim of the State that against the advertised 207 posts there are over 25,000 eligible applicants.

If for the next promotional post of the Assistant Registrar as also for the post of PCS (Executive Branch), only Graduation is the prescribed qualification, that by itself would not render the impugned qualification unconstitutional, especially when the State has submitted that the selection to the post of Inspector is based on only one examination with no interview whereas in the case of Assistant Registrar and PCS (Executive Branch) there are multiple written examinations covering various topics, which in turn judge the merit of the applicants for their appointment qua those posts.

In view of the above, we find that there is no merit in the present petitions and the same are accordingly dismissed.

(RAJESH BINDAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

May 17, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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