

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 997 of 2018 (O&M)

Date of decision: 18.01.2018

Sajjan Kumar

.... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Sajjan Singh, Advocate for the petitioner.

B.S. Walia, J.

[1] Challenge in this writ petition is to notifications dated 30.06.2010 (Annexure P-7), 21.09.2006 (Annexure P-8), advertisement dated 16.02.2016 (Annexure P-2) and rejection letter dated 24.11.2017 (Annexure P-6) to the extent of good academic record mandated as essential qualification for the post of Assistant Professor (College Cadre) in the subject of Political Science as also the rejection of the application/candidature of the petitioner for the post of Assistant Professor (College Cadre) in the subject of Political Science in view of the non-fulfillment of criteria stipulated therein. Further prayer is for directions to the respondents for associating the petitioner in the selection process including interview as also selection for the post of Assistant Professor (College Cadre) in the subject of Political Science by staying the operation of the impugned notifications (Annexures P-7 and P-8), advertisement (Annexure P-2) and rejection letter (Annexure P-6).

[2] The petitioner who was working as Assistant Sub Inspector (ASI) in Haryana Police acquired the qualification of MA in the subject of Political Science. He obtained 617 marks out of 1000 marks i.e. 61.70%, besides, is holder of National Eligibility Test (NET) certificate for lectureship. The petitioner did his graduation with 55.92% marks. Essential qualifications for the post of Assistant Professors (in all subjects except Fine Arts and Mass Communication), as per advertisement is as under:-

“Essential Qualifications:-

(1) ASSISTANT PROFESSORS (all subjects except Fine Arts and Mass Communication)

- (a) Good academic record with at least 55% of the marks or an equivalent grade of B in the 7 point scale with letter grades O, A, B, C, D, E and F at the Master's Degree level in the relevant subject from an Indian University or an equivalent degree from a Foreign University.
- (b) Knowledge of Hindi/Sanskrit upto Matric standard.
- (c) “National Eligibility Test (NET) conducted by the University Grants Commission, Council of Scientific and Industrial Research or similar test accredited by the University Grants Commission like SLET/SET shall remain the minimum eligibility condition for recruitment and appointment as Assistant Professor in Colleges:

Provided that the candidates, who are, or have been awarded a Ph.D degree in accordance with the University Grant Commissioner (minimum standards and procedure for award of Ph.D degree) Regulation, 2009 shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent position in colleges.

Provided further that NET/SLET/SET shall not be required for such Master's Programmes in disciplines for which NET/SLET/SET is not conducted.”

[3] Petitioner is aggrieved with the criteria for determining good academic record as given in Note-II in the information for candidates to Advt. No.10 i.e. Annexure P2. The same is reproduced as under:-

“**NOTE: II** Criteria for determining good academic record:-

- (a) For determining good academic record a candidate should either have average of 55% marks in two of the three examinations (not below Matric or equivalent) prior to Master's degree or 50% marks in each of these two examinations separately.
- (b) For determining good academic record, if total number of marks in two examinations

are different, then the average of percentages is to be calculated by dividing the marks obtained in two examinations by total number of marks in those two examinations.

Relaxation: The following relaxation will however operate:-

- (i) Candidates having 55% or above marks in M.A. or M.Sc. in relevant subject and possessing Ph.D degree in relevant subject the criterion of good academic record will not apply at all.
- (ii) Candidates having 55% or above marks in M.A. or M.Sc. in relevant subject and possessing M.Phil degree in relevant subject should have 50% marks in one of the lower examinations i.e. B.A., Prep or Plus 2, Matric.
- (iii) Candidates obtaining first class first in the University in the relevant subject in M.A. or M.Sc. should have 50% marks in one of the lower examinations i.e. B.A. Prep or Plus 2, Matric.

Note-III Criteria for determining good academic record in case of reserve categories is as under:-

Relaxation of 5% may be provided from 55% to 50% of the marks in determining good academic record for Scheduled Castes/Scheduled Tribes and Physically Handicapped category candidates.

Note IV The prescribed essential qualifications are minimum and mere possession of the same does not entitle a candidate to be called for interview. Where the number of applications received in response to the advertisement is large and it will not be convenient or possible for the Commission to interview all these candidates, the Commission may restrict the number of candidates for interview to a reasonable limit on the basis of qualification and experience higher than the minimum prescribed in the advertisement or by holding screening test or any method devised by the Commission.”

[4] The petitioner applied in response to advertisement (Annexure P-2) dated 16.02.2016 for the post of Assistant Professor (College Cadre) in the subject of Political Science. Petitioner was allotted Roll No.2479 and was called for a written test for assessing claim for being called for interview. Petitioner claimed that he qualified in the written test vide result dated 06.11.2017 (Annexure P-5). Thereafter, letter dated 24.11.2017 (Annexure P-6) was issued by the Haryana Public Service Commission

rejecting the petitioner's claim for the post in question on the ground that he did not possess good academic record as per advertisement upto 10.05.2016.

[5] A perusal of the criteria for assessing good academic record as referred to above reveals that a candidate should either have average of 55% marks in two of the three examinations (not below Matric or equivalent) prior to Master's degree or 50% marks in each of these two examinations separately. However, if total number of marks in two examinations is different, then the average of percentage is to be calculated by dividing the marks obtained in two examinations by total number of marks in those two examinations. However, relaxation is also provided for the purpose of determining good academic record. Accordingly, candidates having 55% or above marks in M.A. or M.Sc. in relevant subject and possessing Ph.D degree in relevant subject are exempt from the requirement of fulfilling the criterion of good academic record. Likewise, candidates having 55% or above marks in M.A. or M.Sc. in relevant subject and possessing M.Phil degree in relevant subject should have 50% marks in one of the lower examinations i.e. B.A., Prep or Plus 2, Matric. Lastly, candidates obtaining first class first in the University in the relevant subject in M.A. or M.Sc. should have 50% marks in one of the lower examinations i.e. B.A. Prep or Plus 2, Matric.

[6] Plea qua rejection of petitioner's candidature is that the petitioner has 61.70% marks in M.A. in the subject of Political Science as against the requirement of 55% marks. He had qualified the screening test, therefore, declaring him ineligible on account of assessment of marks at Matric level and above is legally unsustainable as the condition of good academic record cannot be fulfilled by him at this stage of the career.

Besides, he has excellent academic record in the subject of Political Science including his master's degree and NET etc. and is to be selected for teaching the subject of Political Science. It is further contended that in CWP No.19747 of 2014 titled as Rakesh Kumar and another v. State of Haryana and another challenge was to similar condition of good academic record for the post of Trained Graduate Teacher (TGT). Aforesaid writ petition was disposed of on account of change in the conditions of eligibility laid down in the advertisement, besides, the State having withdrawn the earlier advertisement requiring "consistent good academic record" and issuing a fresh advertisement substituting "good academic record". Challenge to the rejection is also on the ground that against the terms of advertisement, the relaxation clause itself exempts the condition of consistent good academic record for those who fall in the condition mentioned in Note : II (iii) stipulating that the candidates obtaining 1st Class 1st in the University in the relevant subject in M.A. or M.Sc. should have 50% in one of the lower examinations i.e. B.A., Prep or Plus 2, Matric and the respondents had not defined what is meant by 1st Class 1st, therefore, the petitioner may fall under the above relaxation clause of the advertisement as he was 1st Class 1st and having more than 50% in graduation.

[7] We have considered the submissions made by learned counsel for the petitioner. Admittedly, the impugned conditions for determining good academic record are contained in the information for candidates to Advt. No.10 i.e. Annexure P2. The same provides for the criteria for determining good academic record. Relaxation is also provided for. Though, the petitioner no doubt secured 61.70% marks in M.A. in the subject of Political Science as also 55.92% marks in graduation i.e.

Annexure P-1 (collectively), yet neither does the petitioner hold a Ph.D. or M.Phil. nor as per his own showing the petitioner obtained First Class First in the University at the Master's level in Political Science (which implies standing first in the course in first division) so as to entitle him to relaxation for determining good academic record. As per Note-II (a) the petitioner is required to have average of 55% marks in two of the three examinations prior to Master's degree or 50% marks in each of these two examinations separately. The petitioner has not placed on record the marks obtained by him in two of the three examinations prior to Master's degree, for obvious reasons, in view of the grounds i.e. para No.9 (i) and (ii) wherein it has been mentioned that declaring the petitioner ineligible for the assessment of marks at Matric level and onwards is arbitrary and liable to be set aside. The petitioner participated in the selection process with the knowledge of the aforementioned criteria for determining good academic record as an essential condition of eligibility for recruitment to the post of Assistant Professor in the subject of Political Science without raising a challenge to the criteria stipulated therein. Having been declared ineligible vide Annexure P-6 dated 24.11.2017 by the Commission on account of not possessing good academic record as per advertisement it is not open to the petitioner to turn around and challenge the criteria for determining the eligibility condition of good academic record. Reference in this connection can be made to the decision of the Hon'ble Supreme Court in **Madan Mohan v. State of Jammu and Kashmir**, 1995 (2) SCT 880 wherein it has been laid down that having participated in the selection process without raising a challenge to the selection criteria, it is not open to the aggrieved candidate to subsequently challenge the criteria on the selection result being

unpalatable. Besides, it is up to the employer to stipulate the requirement of a consistently good academic record over the years as an essential eligibility condition.

[8] Accordingly, finding no infirmity in the decision dated 24.11.2017 (Annexure P-6) of the Commission rejecting the candidature of the petitioner on account of the petitioner not possessing good academic record as per advertisement upto 10.05.2016, the present writ petition is dismissed in limine.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

18.01.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.