

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**LPA No.686 of 2018 (O&M)
Date of Decision: 10.05.2018**

Randhir Singh

... Appellant

Versus

Haryana Public Service Commission and others

... Respondents

**CORAM:-HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate,
for the appellant.

TEJINDER SINGH DHINDSA, J.

The instant appeal has been filed under Clause X of the Letters Patent against judgment dated 21.03.2018 passed by the learned Single Judge and in terms of which action of the Haryana Public Service Commission (hereinafter referred to as “Commission”) rejecting candidature of the appellant for the post of Assistant Professor (College Cadre) in the subject of Physics has been upheld and the writ petition has been dismissed.

Brief factual matrix is that the Commission advertised a total of 1647 posts of Assistant Professors (College Cadre) for ES-II in the Department of Higher Education, State of Haryana in various subjects.

142 posts were in the subject of Physics and the qualification prescribed in the advertisement was as under:-

“5. Essential Qualifications:-

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

a) Good academic record with atleast 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 Grant Commission, Counsel of Scientific and Industrial Research or similar test accredited by the University Grant 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 Commission (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

conduct.”

Appellant herein applied for the post of Assistant Professor in the subject of Physics in BCB Category.

The appellant impugned before the Writ Court order dated 07.02.2018 passed by the Commission whereby his candidature was rejected on the ground that the degree of Ph.D possessed by him is not as per the University Grants Commission (minimum standards and procedure for award of Ph.D. Degree) Regulations, 2009.

Learned counsel has laid much emphasis upon a Notification dated 11.07.2016 issued by the University Grants Commission, New Delhi and which as per him would lend recognition to the Ph.D. Degree held by the appellant so as to make him eligible for appointment to the post of Assistant Professor (Physics).

No other point was urged.

We find that the argument raised by the counsel is misplaced. The process of selection was initiated in terms of advertisement dated 11.05.2016. Essential qualifications were stipulated in the advertisement itself. Any subsequent Notification that may have been issued cannot be given retrospective effect so as to change the eligibility conditions in relation to the selection process that already stood initiated.

This precisely is the view taken by the learned Single Judge while denying to the appellant herein any benefit under the Notification dated 11.07.2016 that was issued by the UGC.

It is by now well settled that the selection criteria has to be adopted and declared at the time of commencement of a recruitment process. Change of criteria of selection in the midst of the selection process is not permissible. Reference in this regard may be made to the decision of the Apex Court in ***K. Manjusree Vs. State of Andhra Pradesh and another 2008 (2) SCT 86.***

Essential qualifications having been prescribed in the light of an advertisement dated 16.02.2016 (Annexure P-1) the same could not be altered by retrospective operation of a Notification issued subsequently on 11.07.2016.

We are in agreement with the view taken by learned Single Judge.

There is no merit in the present appeal and the same is dismissed.

That apart there is a delay of 12 days in filing the present appeal. No valid justification has been put forth for condoning such delay.

Accordingly, instant appeal is dismissed on merits as well as on the ground of delay.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

10.05.2018

vandana

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No