

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

LPA-219-2019(O&M)
Date of decision: 01.02.2019

Sneh Prabha

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Chanchal K. Singla, Advocate, for the appellant.

KRISHNA MURARI, C.J. (Oral)

CM-480-LPA-2019

For the reasons set out in the application, delay of 32 days in
filing the appeal is condoned.

CM stands disposed of.

LPA-219-2019(O&M)

This appeal under Clause X of the Letters Patent is directed
against the judgment and order dated 21.11.2018 passed by the learned
Single Judge dismissing the writ petition filed by the appellant herein
seeking a mandamus to issue an appointment letter as Art and Crafts
Teacher.

Facts in brief relevant for the purpose of the dispute can be
summarized as under.

In pursuance of an advertisement issued by respondent No.2 for filling up various posts including the Art and Craft Teacher, petitioner made an application. She was called for interview but subsequently her claim was rejected on the ground that she does not possess the Diploma in Art and Craft from any institution approved by the Punjab Government and, thus, does not hold the necessary prescribed qualification.

Writ Petition was filed with the allegation that appellant/petitioner has qualification of B.A. B.Ed. and, thus, is more qualified than a Diploma holder. The subjects, which are taught in 1st and 2nd years of Diploma of Art and Crafts, have already been studied by her in Fine Arts in B.A. Part-I, Part-II and Part-III.

Petition was contested by the respondents contending that the essential qualification prescribed for the said post was Matriculation along with 2 years Diploma in Art and Crafts and since the petitioner did not possess the required two years' diploma, she was ineligible for lack of necessary qualification.

Learned Single Judge dismissed the writ petition on the finding that to take a decision in respect of the question of equivalence is in the domain of academic experts and merely because the petitioner claims that two courses are equivalent, the same cannot be held so nor the Court is fully equipped to adjudicate such questions.

Learned counsel for the appellant/petitioner relied upon a Full Bench judgment of this Court rendered in **Manjit Singh v. State of Punjab and others**, 2011(1) PLR 656, wherein it has been held that the candidate possessing higher qualification in the same line cannot be excluded from selection. Learned counsel further submitted that the issue in the Full Bench

judgment was also in respect of equivalence, which question can be gone into by this Court.

There can be no dispute with the legal proposition settled by the Full Bench of this Court, but the same is not attracted to the facts of the present case. The issue before the Full Bench was in respect of an advertisement prescribing following qualifications for the post in question:

- (1) Senior Secondary School Certificate or Intermediate or its equivalent; and
- (2) Certificate in Physical Education (C.P.Ed.) of a duration of not less than two years or its equivalent.

Certain applicants, who were holding B.P. Ed., M.P. Ed. and/or C.P. Ed. Degrees, applied for posts and that is how issue arose as to whether a person having a higher qualification in the same line can be excluded from selection and the Full Bench answered the issue in “Negative”.

However, the facts of the present case are entirely different and as such the ratio of the Full Bench judgment does not stand attracted to the facts of the present case. In the case at hands the question of higher qualification is not involved because as a matter of fact the petitioner does not possess the requisite qualification, i.e. 2 years’ Diploma in Art and Crafts, prescribed for the advertised post.

We do not find any infirmity in the view taken by the learned Single Judge that the Courts are not fully equipped to enter into the arena of deciding whether the two subjects studied by her can be said to be equivalent and it is exclusively in the domain of academic experts. Thus, no illegality is reflected from the impugned order dismissing the writ petition, which may

require interference. The appeal is devoid of merits and accordingly stands dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

01.02.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO