

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 11714 of 2014(O&M)
Decided on: 31.10.2019

Ravi Khanna

.... Petitioner

versus

State of Punjab & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Argued by : Mr. J.S. Maanipur, Advocate with
Ms. Harpreet Kaur, Advocate
for the petitioner.

Mr. P.S. Bajwa, Addl. AG Punjab.

Mr. Gagandeep Singh, Advocate
for respondent No.2.

Mr. K.S. Mamrat, Advocate
for respondent No.4.

ARUN MONGA, J.

CM-16255 of 2019

Application is allowed and written statement of respondent No.4
along with Annexures is taken on record.

CWP No. 11714 of 2014

1. *Inter alia*, impugned herein is a order/ letter dated 06.02.2014
(Annexure P-8) issued by Director Sports, Government of Punjab, whereby the
petitioner was held dis-entitled to 'B' Grade Sports Category Certificate on the
ground that the same is to be considered from the date when it was issued.
Consequent thereto, respondent No.2 i.e. Punjab ICT Education Society
advertised the posts of Computer Faculty, qua which the petitioner also
applied. However, the candidature of the petitioner was rejected being
ineligible on the ground of having a 'D' Grade Sports Certificate, even though

he had secured more marks i.e. 22.75, as against last selected candidate, who secured 22 marks.

2. I have heard the rival contentions of learned counsel for the parties and have conjointly perused the pleadings along with the relevant record appended thereto.

3. In the return filed by respondent No.3 i.e. Director Sports it is candidly stated that petitioner was originally issued 'D' Grade Sports certificate for his achievements in Punjab University Inter College Tournament held during the year 2010-11. Later, the Government vide order/ instructions dated 08.10.2013 (Annexure R-3) decided to include Chess discipline in the Sports Gradation Policy with “retrospective” effect. As a result, Sports Department issued 'B' Sports Gradation Certificate to the petitioner for his achievements.

4. In the backdrop of it, the petitioner ought to have been given the benefit of 'B' Sports Gradation while preparing the merit list of the candidates in the Sports category. The merit list dated 18.07.2014(Annexure P-1) prepared by the Department is concededly later than the instructions dated 08.10.2013(Annexure R-3). The petitioner was held ineligible on account of having 'D' Gradation Certificate and was placed at Sr. No.15 of the ineligible candidates. The said contradictory action of the Sports Department led respondent No.2 to non-suit the petitioner on the ground that during period of counseling from 11.03.2013 to 13.03.2013, he did not possess a valid 'B' Gradation Certificate.

5. As already stated, once the circular (Annexure R-3) was issued by the Department to treat the Chess competition in the Sports Gradation Policy with retrospective effect, there was no reason for the Sports Department not to accord the benefit thereof to the petitioner as on 18.07.2014 when merit list (Annexure R-1) was prepared for the Sports Category candidates.

6. In view of aforesaid, the impugned orders dated 06.02.2014 (Annexure p-8) and 25.03.2014 (Annexure P-9) are not sustainable in eyes of law and are accordingly set aside.

7. On a query posed by this Court, learned counsel for the petitioner submits that petitioner had obtained an information under Right to Information Act and per same, 14 vacancies of Computer Faculty are lying vacant in the Sports Department. On instructions from petitioner, who is present in Court, learned counsel for the petitioner states that petitioner would not claim any seniority and would be satisfied even if he is kept at bottom of the seniority list of Computer Faculty appointed pursuant to advertisement Annexure P-1.

8. Per contra, learned counsel for respondent No.2, on instructions from Mr. Sukhjinder Singh, Assistant Manager, Department of Sports, submits that as on today one post under General Category is lying vacant.

9. Be as that it may, the conceded position which emerges is that one vacancy as on today is available with respondent No.2. In the premise, respondents are directed to accord the benefit of 'B' Gradation Certificate to the petitioner as per his merit and pass appropriate orders of his appointment in Computer Faculty.

9. Writ petition stands allowed accordingly.

10. No order as to costs.

(ARUN MONGA)
JUDGE

October 31, 2019

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1. Whether speaking/ reasoned: Yes/ No

2. Whether reportable: Yes/ No