

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-11271-2016(O&M)

Decided on: 03.12.2019

Ms.Kiranjeet Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: *HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE*
HON'BLE MR. JUSTICE RAJIV SHARMA, JUDGE

Present: Mr.G.S.Sullar, Advocate for the petitioner.
Ms.Lavanya Paul, AAG, Punjab.

RAVI SHANKER JHA, CHIEF JUSTICE (ORAL)

The petitioner has filed this petition praying for direction to the respondent authorities to quash advertisement dated 21.11.2015 issued by the respondents for initiating the process for appointment on the post of Lecturer in the subject of Biology, with a further direction to the authorities to include and treat the qualification of Bio-Technology possessed by the petitioner as valid qualification for appointment on the post of Lecturer Biology.

Learned counsel for the petitioner submits that the respondent authorities have taken steps to fill up posts of Lecturer in Biology under the provision of the Punjab State Education Class-III (School Cadre) Services Rules, 1978 (in short "the Rules"). It is stated that as per the provisions of item no.2 contained in appendix B appended to the Rules, the qualification prescribed for filling up the post of Lecturer for General Education, Lecturer for Training Institution to direct recruitment is M.A. or M.Sc. or M.Com. and B.T. or B.Ed. M.Ed. 2nd class.

Learned counsel for the petitioner submits that a bare perusal of

of a Master Degree alongwith teacher training.

Learned counsel for the petitioner submits that the authorities for the purpose of making appointment on 30 posts of Lecturer in Biology invited the applications through the impugned advertisement that was issued online on 20.11.2015 wherein the educational qualifications prescribed were possession of Master's degree in Botany or Zoology and Bachelor's degree in Education from a recognized University.

Learned counsel for the petitioner submits that the petitioner who possesses Master's degree in Bio-Technology applied for appointment on the said post but her candidature was rejected on account of the fact that she did not possess a Master's degree in Botany or Zoology which is evident from perusal of page 63 of the petition wherein the petitioner's name is mentioned at serial no.10 of the list of rejected candidates.

Learned counsel for the petitioner submits that M.Sc. in Bio-Technology is a part of Biology. He submits that in such circumstances specifying only Botany or Zoology as relevant subject for appointment on the post of Lecturer in Biology amounts to violation of petitioner's fundamental rights under Articles 14 and 16 of the Constitution of India inasmuch as people who are similarly situated namely those possessing Master's degree in Bio-Technology and other Life Science related subjects have been excluded from being considered although they form a single class.

Learned counsel for the petitioner submits that the impugned advertisement dated 20.11.2015 is, therefore, violative of the petitioner's fundamental rights under Articles 14 and 16 of the Constitution and deserves to be quashed.

Learned counsel for the petitioner submits that in previous petitions filed by certain other candidates raising a similar issue, this Court had directed an Expert Committee to examine the matter. It is submitted that the Expert Committee was of the opinion that the subject of Bio-Technology was part of Biology and therefore, the persons possessing the degree in Bio-Technology are eligible for appointment on the post of Lecturer Biology.

Learned counsel for the petitioner has taken this Court through an order dated 14.12.2016 passed by the learned Single Judge of this Court in ***CWP no.13606 of 2014*** titled ***Dharam Pal vs. State of Punjab and others***. Learned counsel for the petitioner in support of submission has also taken this Court through the decision rendered in ***CWP no.13125 of 2012*** titled ***Babli vs. State of Haryana and others***, wherein this Court had treated as many as 16 courses to be part of the faculty of Life Science including Bio-Technology and had directed the authorities to treat the persons possessing degrees in all 16 M.Sc. courses as eligible for appointment.

Learned counsel for the petitioner has also pointed out that in another recruitment undertaken by the respondent authorities, persons possessing qualification of Bio-Technology have been considered as eligible and given appointment. In support of the submission, learned counsel for the petitioner has taken this Court through the result of the selection at page 83 of the petition.

Learned counsel for the petitioner submits that in such circumstances the act of the respondents is discriminatory and therefore, appropriate directions be issued to the respondents to consider and appoint the petitioner on the post of Lecturer.

The State per contra has filed a written statement that entry in item no.2 contained in the Appendix B, is general in nature and relates to the qualification required for appointment of Lecturer for General Education. The rules thereafter leave it to the authorities to prescribe the qualification for the post of Lecturer in the related subject. It is submitted that the impugned advertisement has been issued for the purposes of filling up the posts of Lecturers in Biology and therefore, qualification of Botany and Zoology has rightly been prescribed. It is pointed out that the appointing authority has the power to select and to identify the relevant qualifications necessary for appointment on posts and no person or petitioner is entitled to direct the State to include certain qualification for the purposes of appointment on particular post. By way of additional affidavit, the State of Punjab has also clarified that the appointments made on the post of Lecturer referred to at page 83 of the petition were not made in exercise of powers under the Rules 1978 but appointments were made for the purposes of implementing the centrally sponsored scheme under Rashtriya Madhyamik Sikhiya Abhiyan Authority, Punjab.

Learned counsel appearing for both the parties pointed out that subsequently the authorities after examining the matter amended the Rules on 08.08.2018 and the Rules have now prescribed specific qualification for individual posts. It is jointly submitted that the rules after amendment prescribe separate qualification relating to Lecturers in Biology in stead of Lecturer in General Education as contained in the Rules 1978 and include those persons possessing degree in Bio-Technology and other related subjects as valid and eligible qualification for appointment on the post of Lecturer in Biology.

It is also stated before this Court that appointments pursuant to the impugned advertisement were taken up and have already been completed in the year 2016 itself and therefore nothing further survives for being undertaken under the impugned advertisement as the issue raised in this petition has been rendered academic.

We have heard learned counsel for the parties.

Before we advert to the issue raised by the petitioner, it is necessary to take note of the fact that appointments pursuant to the impugned advertisement have already been made in the year 2016. The posts have been filled up and nothing further survives for being undertaken under the impugned advertisement. It is also noted that none of the persons appointed pursuant to the impugned advertisement have been implemented nor has their appointment been challenged by making appropriate amendment in the petition.

As the issue raised by the petitioner has been rendered infructuous and academic with the efflux of time, we do not propose to enter into the same or decide it at this belated stage. The petition is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

December 03, 2019.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No