

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.17849 of 2019
Date of decision:21.08.2019

Kailash Chand

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Deepak Sharma, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

AMIT RAWAL J.

Present writ petition has been filed under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the impugned selection list/result dated 09.06.2019 (Annexure P-8) as respondents failed to give 16 marks to the petitioner under column of experience as per the selection criteria.

The facts which emanate from the writ petition are that in response to the advertisement bearing No.4 of 2015 caused by respondent no.2- Haryana Staff Selection Commission, 6874 posts of PGT-H.E.S.II (Group B Services) Teachers were sought to be filled-up out of which in Category 8, 398 posts were reserved for PGT History Teachers and 200 posts were kept for Un-Reserved Category. The eligibility condition/qualification to all the categories was as under:-

1. Eligibility

a Matric with Hindi/Sanskrit or 10+2/BA/MA with Hindi as one of the subject.

b. Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teacher Eligibility Test (STET) of respective subject for the post applied, conducted by Board of School Education Haryana, Bhiwani.

Note: The candidates those who are having/passed HTET till the date of interview after department will be allowed for interview on the basis of acquiring HTET(Test) till the date of interview.

c. Consistent good academic record (see Note 2)

Note: Applications of candidates not having consistent good academic record will be accepted provisionally as per directions of Hon'ble Punjab and Haryana High Court, Chandigarh passed in CWP No.19747 of 2014 titled as Rakesh Kumar and another vs. State of Haryana, subject to final decision of the said CWP.

d. Essential qualification (EQ) is given with each post.

• 18-42 years, relaxation as given in special instructions for working teachers upper age relaxation (See Note 3).

• Rs. 9300-34800 (PB-2) with a grade pay of Rs.4800/-

XXXXXXXX

Cat.No.08 398 posts PGT History

EQ MA History with at least 50% marks and B.Ed from

recognized university.”

Petitioner as per advertisement submitted online application form by scanning the documents mandatorily required consisting of certificates 10th, 10+2, Mark-Sheet of B.A.3rd Year, B.Ed, final mark sheet of M.A. History, Haryana residents certificate, School Teacher Eligibility Test Certificate, Haryana Teacher Eligibility Test (HTET), experience certificate as Lecturer in History and necessary certificates were to be brought at the time of scrutiny of documents/interview. Accordingly, petitioner was issued admit card/roll number for the written test held on 13.03.2016 (Annexure P-4) and was declared successful in the written test. Thereafter, he was called for scrutiny of documents-cum-interview on 16.02.2017 at 9.00 am at Commission Office, Sector 2 Panchkula. The petitioner duly appeared for verification of documents. However, Committee after scrutinization of the documents asked the petitioner to submit a salary certificate for the experience from 01.11.2000 to 31.01.2006 which was not mentioned in the experience certificate. The petitioner on the next day submitted the salary certificate (Annexure P-7) collectively but flabbergasted to notice the result dated 09.06.2019 (Annexure P-8) as his roll number did not figure in the merit list. In fact, petitioner has secured 114 marks in written examination whereas cut-off of written examination alongwith interview was more than that and should have been awarded 16 marks on the basis of experience certificates and thus, would have obtained 130 marks whereas cut off marks was 128. Even representation (Annexure P-9) in this regard was submitted but no action was taken.

This Court on 05.07.2019, after noticing the contention called upon learned State Counsel to produce record with regard to non-awarding of 16 marks to the petitioner on the basis of 8 years' experience. In response to the same, Mr. Kiran Pal Singh, learned State Counsel has shown to this Court final result where petitioner has secured 112 marks in written examination and 15 marks in interview, total 127 marks. He submitted that selection criteria which has now been made public contained a condition of 16 marks for the experience but there was no compliance of the condition specified in the advertisement as all the teaching experience certificates would be considered only when counter signed by the Director, Secondary Education of concerned State even for Central Board of Secondary Education/Central Schools and Navodaya Vidhayala. Teaching experience must be for the post of PGT of the relevant subject.

The original application form submitted by petitioner was downloaded where against column no.6, was found to be "ineligible" as his experience certificate did not mention about salary, therefore, the same was considered to be incomplete, even the certificate dated 16.01.2017 was not counter signed by the competent authority. The aforementioned documents uploaded by the petitioner have been shown to this Court which reflect that only experience certificate dated 20.02.2016, experience w.e.f. 01.11.2000 to 31.01.2006 was counter signed whereas other experience certificate dated 16.01.2017, experience w.e.f. 2.1.2013 to till date, was without reference of salary, have not been signed. Even certificate counter signed did not reflect the salary.

In support of submission, relied upon the un-reported judgment of this Court in CWP No.19798 of 2012 titled as 'Ram Mehar Vs. State of Haryana and others', decided on 24.02.2014, whereby, declaration of candidate ineligible by the Haryana Staff Selection Commission owing to the certificate not counter signed by the Director of Secondary Education Haryana was upheld and LPA bearing No.1515 of 2014 was also dismissed.

Learned counsel for the petitioner in rebuttal submitted that there is no denial to the fact that salary certificate (Annexure P-7) at page 47 of the paper book was obtained from Benarsi Dass Senior Secondary School which was counter signed by Block Education Officer, was submitted to the Committee, therefore, candidature, of the petitioner was required to be held eligible.

I have heard the learned counsel for parties, appraised paper book and of view that there is no force and merit in the submissions of Mr. Deepak Sharma.

Taking the last argument first, even certificate (Annexure P-7) was not counter signed by the Director of Secondary Education but by Block Education Officer, who was not competent authority. For the sake of brevity, condition of teaching experience and selection criteria is extracted herein below:-

Teaching Experience:

Experience wherever applicable will be considered, only after acquiring the essential qualification along with details of salary of the concerned post and the experience must be

countersigned by the Director, Secondary Education of the concerned State even for CBSE/Central Schools & Navodaya Vidyalaya. Teaching experience must be for the post of PGT of the relevant subject.

Selection Criteria

Total Marks:200

1. Written Examination

160 Marks

The written examination for the above posts will comprise of 80 multiple choice questions and divided into two portions comprising:-

- i) 75% weightage for General awareness, reasoning, Maths, Science, English, Hindi etc. (the word etc. means and includes concerned subject).*
- ii) 25% weightage of History, Current Affairs, Literature, Geography, Civics, Environment, Culture etc. of Haryana.*

Each question will carry two marks

II Experience

16 Marks

(2 marks for each completed period of one year upto a maximum of 16 marks in teaching of relevant subject)

III Viva-Voce/Interview

24 Marks

To assess the knowledge of subject, communication Skill, General Knowledge, General awareness and Intelligence.

The number of candidates called for interview will be twice the number of vacancies. The total marks obtained in the written test, Experience and viva voce will determine the merit of the

candidates in their respective categories.”

The original form downloaded from the website enclosing the documents reveals that only one certificate was counter signed without reference of salary whereas remaining were not, therefore, there was no compliance of the same. The proposition aforementioned with regard to the documents having not counter signed by the Director of Secondary Education is no longer *res integra* in view of the law laid down by this Court in CWP No.19798 of 2012 titled as 'Ram Mehar Vs. State of Haryana and others' decided on 24.02.2014 which was upheld in LPA No.1515 of 2014 vide order dated 26.03.2015. The relevant portion of the same reads as under:-

“A perusal of the above leaves no manner of doubt that a candidate is entitled to one time exemption certificate for HTET/STET if a certificate is issued by the Head of the Institute and the same is duly verified by the District Education Officer and countersigned by the Director, Secondary Education of the concerned State. Since the institution from which the petitioner is having experience certificate is situated in District Karnal and in State of Haryana, the same was required to be verified by the District Education Officer, Karnal and countersigned by the Director of Secondary Education, Haryana. Even If the certificate is duly verified and countersigned by the Secretary, Secondary Education Officer, Central Board of School Education, Regional Officer

Panchkula, the same would not fulfill the requirement of the advertisement. The rejection of the candidature of the petitioner, therefore, being in accordance with the advertisement, cannot be said to be illegal which would call for interference by this Court.

In view of the above, the present writ petition stands dismissed.

In such circumstance, petitioner was not eligible for consideration. Even he had not been able to achieve the minimum cut off marks as his result is 127 marks whereas cut off marks is 128.

No ground for interference is made out.

The documents handed over during the course of hearing are returned back.

Dismissed.

(AMIT RAWAL)
JUDGE

August 21, 2019

savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No