

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

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**CWP No. 21713 of 2016 (O&M)
Date of Decision : 06.12.2019**

Sukhvinder Kaur and others

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM:HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Manu K. Bhandari, Advocate for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab

SUVIR SEHGAL, J.

The petitioners have prayed for issuance of an appropriate writ quashing clause 5 of the Public Notice dated 21.09.2016 (Annexure P-4) in so far as it provides for counting of experience after 3 years of acquiring the Graduation degree for appointment to post of Anganwari Supervisor from the post of Anganwari Worker with further direction to the respondents to count the entire work experience rendered by the petitioners as Anganwari Worker.

In brief, the petitioners joined as Anganwari Workers under the respondents on different dates mentioned in para 3 of the writ petition. During the service, they acquired the Graduation degree. A

public notice dated 21.09.2016 (Annexure P-4) was issued by the respondents calling applications for filling up 101 posts of Anganwari Supervisors. Petitioners applied in pursuance thereto but because of Clause 4 in the public notice, which provides that marks for experience will be given for experience gained three years after acquiring the graduation degree, they were rendered ineligible. They have challenged the said clause as being violative of Rule 6 of the Punjab Social Security & Development of Women and Children (Group-'C') Non-Ministerial Service Rules, 2001 (for short 'Rules of 2001').

Upon notice being issued, the respondents have filed their reply and justified the interpretation given to the public notice and have further placed reliance upon a judgment of this Court. Replication has been filed by the petitioner re-iterating the averments of the writ petition.

Counsels for the parties have been heard.

In a similar fact situation, the Rules of 2001 came up for interpretation before this Court in CWP No.18423 of 2003 titled as ***Paramjit Kaur Versus State of Punjab and others***, decided on 05.04.2016. Noticing the relevant rule, this Court observed as under:-

“Reference is made to Sr.No.3 to submit that 75% seats were reserved for promotion for Anganwari Workers, out of which, 35% were to be by selection from the graduates who had an experience of work, as such, for a period of 3 years. Relevant part of the Appendix B reads as under:

“(ii) Thirty five per cent by selection from amongst the Anganwadi Workers, who are Graduates from a recognized university or institution and who have an experience of

working as such for a minimum period of three years.”

It is submitted by counsel for the petitioner that the experience should be from the year 1998 instead of 2001, in the case of the petitioners and as such, there was no specific condition under the Rules that the benefit had to be counted after a period of 3 years.

The said argument, in the opinion of this Court, cannot be accepted. A reading of the above rule would go on to show that the person would only be eligible under the graduate category after he had the experience of work for a minimum period of 3 years. The work experience is, thus, to be seen after the acquisition of the educational qualification and not prior to that. Candidate who had less than 3 years' experience, was not even eligible. The criteria which has been fixed for the grant of one mark every year after the lock-in period of 3 years, is a criteria which has been adopted across the board, for the similarly situated candidates. Similar criteria has also been fixed for the persons applying in the category of matriculates wherein 8 years experience is required and there is a block-in period of 8 years, in the notice also. It is in consonance with Clause (i) wherein also, for aspirants who are matriculates, were required to have a minimum period of 8 years of experience. As such, the criteria does not mitigate against the rules, as contended, in any manner. Even otherwise, it is settled principle that it is for the employer to fix the criteria for promotion or appointments and it

is not for the Courts to substitute the same.

In such circumstances, no case is made out for interference. Accordingly, the present writ petitions are, hereby, dismissed.”

As the factual position in the present case is similar to the facts emanating from ***Paramjit Kaur's*** case (supra), no relief can be granted to the petitioners.

Accordingly, the writ petition is dismissed with no order as to costs.

06.12.2019

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No