

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

**C.W.P 27624 of 2018 (O&M)
Date of decision : 14.03.2019**

Monika BalwariaPetitioner
versus

State of Haryana and others ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Brar, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G Haryana

RITU BAHRI, J. (Oral)

C.M.No. 3048-2019

The present application seeking preponement of the date of the present petition is allowed and the main case is taken up today itself for disposal

CWP No. 27624-2018

Petitioner is seeking setting aside of the action of the respondent for not selecting her at the time of declaration of result dated 17.10.2018 (P-9).

This Court on 29.10.2018 passed the following order:-

Petitioner is participating in the selection process to the post of TGT Science vide Advertisement No.28.06.2015. Petitioner has successfully cleared her written examination and got 90 marks in the SC category. As per final result, petitioner has not been selected by the respondent/Commission. The petitioner had made the self assessment of her marks in the written examination by comparing her OMR sheet with the answer key issued by the respondent/Commission and it was found that she had scored 90 marks but she has not been selected

whereas, last candidates who has got 65 marks has been selected for the said post in the same category.”

Learned State counsel has produced the result of the petitioner in a sealed cover, which has been opened by the Reader of this Court. The petitioner has secured 110 marks (92 in written examination and 18 in viva voice) and the last candidate who has been selected has secured 65 marks. The final result has been declared on 17.10.2018 (P-9).

Learned State counsel submits that the petitioner was found not eligible for the above post and thus she was not called for interview. She was provisionally interviewed under the order of this Court. It has been stated that before declaring the final result, the documents of the petitioner including some other candidates were re-scrutinized and it was found that as per advertisement at least three subjects out of Physics, Chemistry, Botany, Zoology and Math are required. The petitioner has possessed B.Sc with Chemistry and Zoology and she has passed Botany as additional subject after the closing date of submission of application form and thus the petitioner was rightly declared not eligible.

On the other hand, learned counsel for the petitioner submits that earlier as per Rules of 1998, there was combination of at least two subjects out of four subject i.e Physics, Chemistry, Botany, Zoology and as per Rules of 2012, there should be a combination of at least three subjects out of five subjects Physics, Chemistry, Botany, Zoology, Mathematics. Learned counsel submits that the petitioner is duly eligible as per norms of notification of 2012, before the submission of documents for scrutiny. Learned counsel further submits while framing Rules of 2012, as per notification dated 02.07.2012 (P-12) the respondent-Commission has given one time measure to the persons who were not fulfilling the criteria of rules of 2012, but fulfilling the criteria of Rules of 1998

by invoking provision of Rule 19-A.

Further the present advertisement is deemed to be first advertisement as earlier advertisement, which came in 2014 was withdrawn by the Commission. Thus, the petitioner was fully entitled as one time exemption as the aforesaid advertisement for the post of TGT (Science) was made first time after framing of Rules of 2012.

After going through the facts of the present case, the same deserves to be allowed on the ground that firstly the case of the petitioner is fully covered by Rules of 1998, the petitioner should have cleared two subjects out of four subject i.e Physics, Chemistry, Botany, Zoology and as per Rules of 2012, the petitioner should have cleared three subjects out of five subjects Physics, Chemistry, Botany, Zoology, Mathematics. The petitioner has already cleared two subjects and has cleared third subject i.e Botany before the date of advertisement i.e in April, 2015. The petitioner case is fully covered as per notification dated 02.07.2012 (P-12) which has given one time exemption to clear the third subject. At the time of interview, he was duly qualified.

In view of the above factual position, the present petition stands allowed and the respondent-Commission shall recommend the case of the petitioner for appointment to the post of TGT (Science) under S.C. Category within a period of fifteen days to respondent No. 2 from the date of receipt of certified copy of this order and thereafter, respondent No. 2 will issue appointment letter to the petitioner, within the next fifteen days.

The result in original has been returned back to learned State counsel.

March 14, 2019
G Arora

(RITU BAHRI)
JUDGE
Yes
No

Whether speaking/reasoned
Whether reportable