

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

304

CWP No.8899 of 2017 (O&M)**Date of Decision : 20.12.2019**

Nirmala

....Petitioner

v/s

State of Haryana and others

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. Vivek Khatri, Advocate for the petitioner.
Mr. Pankaj Mulwani, DAG, Haryana.

B.S. Walia, J.,

[1] Prayer in the writ petition is for the issuance of a writ of Mandamus for directing the respondents to select and appoint the petitioner as PGT (Home Science) and further praying that during the pendency of the writ petition, the respondents be directed to keep one post of PGT (Home Science) vacant under the General Category.

[2] Brief facts of the case, leading to the filing of the writ petition are that the petitioner, who is B.Sc and M.Sc. in Home Science and qualified B.Ed. examination held in July, 2015, applied for one of the 90 posts advertised for selection of Post Graduate Teacher (PGT) HES-II (Group/B Services) in the subject of Home Science in response to advertisement No.4/2015 dated 28.06.2015 i.e. Annexure P/1.

[3] The petitioner claiming to be eligible submitted her application form online along with all relevant documents in support of her educational qualifications before the last date i.e. 12.10.2015. However, since the result of

mentioned the status of her B.Ed. examination but not annexed the certificate of passing B.Ed. along with her application form. Result-cum-Detailed Marks Card of Bachelor of Education Examination held in July, 2015 dated 21.10.2015 Annexure P/2 was issued to the petitioner by the Kurukshetra University on 05.11.2005.

[4] That on the basis of the application submitted by the petitioner, respondent No.2 issued admit card (Annexure P/3) dated 15.02.2016 for the written examination to be held on 15.03.2016.

[5] That the petitioner appeared in the written examination held on 15.03.2016 and as per the result (Annexure P/4) dated 30.12.2016 of the written examination declared by respondent No.2 for the post of PGT (Home Science), the petitioner was shown to have cleared the written examination.

[6] That all candidates who had passed the written examination were called for interview but the petitioner was not called for interview and on meeting the officials of respondent No.2, the petitioner learnt that she had not been called for interview as she had not submitted her provisional result of B.Ed. examination.

[7] On written request made by the petitioner for submission of provisional result, the petitioner was allowed to participate in the interview by respondent No.2 by issuing admit card (Annexure P/5) dated 13.01.2017.

[8] Although the petitioner in paragraph No.14 of the writ petition has mentioned that the detailed marks card (Annexure P/2) dated 21.10.2015 issued on 05.11.2015 was lost by her, therefore, she applied for the issuance of provisional DMC, but no provisional DMC has been placed on record.

Learned Counsel for the petitioner submitted that in response to the request of

examination, the petitioner was issued only a letter by the Kurukshetra University (Annexure P/6) dated 02.02.2017, mentioning her B.Ed. result. The petitioner approached respondent No.2 along with the letter (Annexure P/6) dated 02.02.2017 and submitted the same in the office of respondent No.2 vide diary No.818 dated 03.02.2017. However, in the final result (Annexure P/7) dated 03.03.2017, the name of the petitioner did not find mention in the list of candidates selected for appointment to the post of PGT (Home Science).

[9] The petitioner submitted representation to respondent No.2 (Annexure P/8) dated 31.03.2017 but to no avail, therefore, the writ petition has been filed with the plea that rejection of candidature of the petitioner for the post of PGT (Home Science) only on the ground of non submission of original result of B.Ed. examination, was legally unsustainable.

[10] Learned counsel for the petitioner has produced copy of the online application form (Annexure P/12) submitted by the petitioner to the Commission, which reveals the petitioner having mentioned her passing B.Ed. examination in the year 2015 from Kurukshetra University in Home Science, Life Science and having secured 704 marks out of 1000 marks.

[11] Learned counsel for the respondents does not dispute the details given by the petitioner in the online application form. The petitioner has also produced copy of Detailed Marks Card (Annexure P/2) dated 21.10.2015 issued on 05.11.2015, by the Kurukshetra University, Kurukshetra against Serial No.0649269 showing the petitioner to have secured 704 marks out of 1000 marks i.e. the marks as mentioned by the petitioner in the online application form submitted by her to the Commission. Further (Annexure P/6) issued by the Kurukshetra University dated 02.02.2017 mentions that the result

result of the petitioner was declared as RLA due to non receipt of internal marks. However, her provisional result was declared on 10.10.2015 and Detailed Marks Card was issued to her on 05.11.2015. Thus, admittedly, the petitioner passed her B.Ed. examination with 704 marks and although the result of the B.Ed. examination was published on 07.10.2015 the petitioner's result was declared as RLA due to non receipt of internal marks and her provisional result was declared on 10.10.2015, while Detailed Marks Card was issued to her on 05.11.2015. The marks obtained by the petitioner in the Detailed Marks Card (Annexure P/2) are the same, as mentioned by the petitioner in the online application form submitted before the cut off date i.e. 12.10.2015.

[12] That as per the advertisement (Annexure P/1), online application form could be filled up from 21.08.2015 to 21.09.2015 and that qualifications/eligibility conditions, age and other documents (except HTET) would be determined with regard to last date fixed to apply online applications also called as closing date i.e. 21.09.2015 given in the advertisement. However, vide corrigendum dated 19.09.2015, the last date for submitting online application form was extended to 12.10.2015. Therefore, the last date for determining qualifications, eligibility etc was 12.10.2015. Essential qualification for the post of PGT (Home Science) are as under:-

“Cat. No.9 193 post (Included 16 Post of Backlog of SC) of PGT Home Science

E.Q. M.Sc. Home Science with at least 50% marks and B.Ed. from recognized university.”

[13] The Commission in its reply has taken up the stand that the petitioner passed her B.Ed. qualifications on 05.11.2015 i.e. after the last date

for submission of online form and further that the petitioner had not submitted her result sheet of B.Ed. with the application form and, thereafter, submitted the mark sheet dated 21.10.2015 to respondent No.2 and was interviewed provisionally by respondent No.2 and in her form, it was mentioned “provisionally eligible, B.Ed. after cut off date”.

[14] The Commission has further mentioned that as per Annexure P/2 & P/6, date of issue of Detailed Mark Sheet of B.Ed. of the petitioner was mentioned as 05.11.2015, whereas the last date for submission of online application form was 12.10.2015 as per corrigendum dated 19.09.2015. Therefore, the petitioner was not eligible as she did not possess the requisite qualification on the last date for submission of online application forms as per eligibility conditions of said advertisement.

[15] I have considered the submissions of learned counsel for the parties and perused the relevant record.

[16] The Pass Provisional Slip (Annexure P/11) dated 09.10.2015 reflects the petitioner to have secured 704 marks out of 1000 marks with 1st Division in the B.Ed. examination held by Kurukshetra University, Kurukshetra in July, 2015.

[17] Obviously, petitioner could mention having secured 704 marks out of 1000 marks in the online application form submitted before the cut off date i.e. 12.10.2015 in view of having been issued the Pass Provisional Slip (Annexure P/11) dated 09.10.2015, which reflects the petitioner to have secured 704 marks out of 1000 marks in the B.Ed. examination, conducted in July, 2015 by Kurukshetra University and after having passed the said examination in the 1st Division. The Pass Provisional Slip (Annexure P/11)

P/6) dated 02.02.2017, issued by the Kurukshetra University, which mentions declaration of her provisional result before 12.10.2015.

[18] It has not been disputed by learned counsel for the Commission that the provisional result (Annexure P/11) dated 09.10.2015 declared by the Kurukshetra University, reflecting the petitioner to have secured 704 marks out of 1000 marks is factually correct and that the petitioner passed the B.Ed. examination conducted in July, 2015 in the 1st Division. Once the petitioner qualified the B.Ed. examination in the 1st Division with 704 marks out of 1000 marks and the result of B.Ed. examination was published on 07.10.2015, but the result of the petitioner was RLA due to non receipt of internal marks, where after the petitioner was issued Pass Provisional Slip (Annexure P/11) dated 09.10.2015 reflecting her to have passed the B.Ed. examination in the 1st Division, the result which admittedly remained unchanged even subsequently, there is no doubt that the petitioner possessed the qualification of B.Ed. before the cut off date.

[19] My view finds support from the decision of Hon'ble the Division Bench of this Court in LPA No.362 of 2018 and others, where vide a common judgment, a bunch of LPAs was dismissed, wherein the Haryana Staff Selection Commission had challenged the decision of a Single Bench, allowing the writ petition filed by the applicant-candidate therein. The controversy in that case was that the Haryana Staff Selection Commission advertised posts for Post Graduate Teachers in different disciplines, including Mathematics and English. The last date for receipt of online applications form was 12.10.2015. Since B.Ed. result of the petitioners was not officially declared by Maharshi Dayanand University, Rohtak before the said cut off date, the candidates

University did and in this way, on the basis of the confidential result, the petitioners applied before the cut off date i.e. 12.10.2015 and that there was no dispute that the result was declared on 05.11.2015 when the cut off date had already passed. The Court therein was informed that in the result, all the petitioners passed their examination, though there was little difference in marks between the marks conveyed through confidential result and the result officially declared. Screening test was done on 06.03.2016 and the interviews were held from 07.10.2016 to 10.10.2016. During screening, candidature of the petitioners was rejected on the ground that their result was not officially declared before the cut off date.

[20] Hon'ble the Division Bench after hearing both the parties arrived at the conclusion that the result may have been declared confidentially/provisionally but fact remained that all the petitioners had qualified the B.Ed. examination and were eligible to apply for appointment to the post of PGT Teacher before the cut off date and ultimately marks could have been considered at the time of interview if it affected the merit. In any case, the final result of B.Ed. had also been declared before the screening test, therefore, the LPAs filed by the Commission were dismissed and the order of the Single Bench, declaring the candidates to be eligible was upheld.

[21] In view of the decision of Hon'ble the Division Bench of this Court in LPA No. 362 of 2018 as also the position as noted above, the writ petition is **allowed**, petitioner is held eligible as on the cut off date therefore entitled to be considered for selection and appointment as per merit on the basis of the selection process faced by her. Resultantly, the Commission shall declare the result of the petitioner and depending upon the result so declared

warranted in the facts and circumstances of the case within six weeks of the receipt of certified copy of order.

Date : 20.12.2019

(B.S. Walia)
Judge

‘Rajneesh’

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No