

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.8703 of 2018 (O&M)

Date of decision:22.10.2019

Rekha

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. R.K.Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. Vineet Dhanda, Advocate
for respondent no.4.

AMIT RAWAL J. (Oral)

Short point involved in present writ petition is whether petitioner having been issued appointment letter after undergone the process of selection for the post of Statistical Assistant vide order dated 21.03.2018 (Annexure P-4), can be cancelled few days thereafter, i.e on 30.03.2018 (Annexure P-5), on recommendation of Haryana Staff Selection Commission for appointment being more meritorious.

Mr. R.K.Malik, learned senior counsel assisted by Mr. Sandeep Dhull, Advocate appearing on behalf of the petitioner submits that in pursuance to advertisement no.11 of 2015 dated 01.12.2015 caused by Haryana Staff Selection Commission, applications were invited for filling up the posts of Statistical Assistant by fixing the last date as 17.02.2016.

Numerous candidates including the petitioner applied for the aforementioned post. The petitioner after having undergone the process of written test, interview and scrutiny of documents, was issued appointment letter whereas respondent no.4-Yogita was issued roll number 1151500216 and candidature of the petitioner was rejected by the Committee not being eligible as she did not fulfill the condition of experience certificate. In this regard, he drew the attention of this Court to written statement of Haryana Staff Selection Commission wherein in paragraph 6, explained that Commission on 11.01.2018 received the representation of respondent no.4 enclosing the experience certificate of three years i.e. w.e.f 01.02.2013 to 10.02.2016 which was accepted and was provisionally interviewed on 12.01.2018 (Annexure R-3/1). Committee considered the matter and found that respondent no.4 fulfilled the condition of three years' experience resulting into cancellation of candidature. The aforementioned decision of Committee is wholly fallacious and do not stand on touchstone of reasonability as information received vide Annexure P-9 reveals that declaration forms of teaching faculties submitted during assessment of College were available on the website i.e. www.mciindia.org. Annexure P-10, reveals that respondent no.4 joined Chintpurni Medical College, Pathankot, Gurdaspur on 29.03.2013 and therefore, she did not fulfill three years experience condition one of eligibility condition in the advertisement. Aforementioned contentions were fortified by referring to appointment letter dated 29.03.2013 (Annexure P-11) and joining thereon.

Learned State Counsel and Mr. Vineet Dhanda, Advocate

appearing on behalf of respondent no.4 submitted that Court cannot sit in appeal over the decision of Committee being expert noticing the eligibility condition as she fulfilled the criteria of three years' experience being essential eligibility condition, therefore, her candidature was inadvertently rejected. Haryana Staff Selection Commission applied the principle of 'last come first go'.

I have heard learned counsel for the parties and appraised paper book. The eligibility condition of three years' experience is not in dispute. It would be apt to reproduce paragraph 6 of the written statement of Haryana Staff Selection Commission, appointment letter dated 29.03.2013 (Annexure P-11) and joining report.

“6. That on dated 11.01.2018 Commission has received the representation from one candidate Yogita D/o Sh. Ramesh Kumar bearing Roll No.115500216, who was treated as not eligible at the time of scrutiny of documents as she does not fulfil the condition of experience as per advertisement. Ms. Yogita was having experience certificate of Statistician cum Assistant Professor issued by Chintpurni Medical College & Hospital, Bungal, Pathankot for the period from 01.02.2013 to 10.02.2016. On the basis of the representation 11.01.2018 she was provisionally interviewed on dated 12.01.2018, the copy of which is (Annexure R-3/1).

The matter was considered by the Committee and has of the view that Ms. Yogita fulfil the condition of three years

experience as required in educational qualification and she may be treated eligible. Accordingly, a meeting of Commission was held on 28.02.2018 and the Commission decided that as per decision of the Committee she be treated eligible and her result be declared for the post of Statistical Assistant. The copy of the proceeding of the meeting dated 28.02.2018 is annexed as (Annexure R-3/2).

Appointment Letter dated 29.03.2013 (Annexure P-11)

Ref.No.CSES/APP/2013/51-E

Dated 29.03.2013

To

Miss Yogita,

Statistician-cum-Assistant Professor,

Deptt of SPM

Sub:- Appointment for the post of Statistician-cum-Assistant Professor (SPM) at the Chintpurni Medical College & Hospital, Pathankot, village Bungal, Punjab.

Dear Madam

On the recommendation of the selection committee meeting held on 29.03.2013, you are hereby appointment to the post of Statistician-cum-Assistant Professor (SPM) at the Chintpurni Medical College & Hospital, Pathankot, village Bungal, Punjab on the following terms and conditions:-

- 1. Your appointment will take effect from the date you join the post.*

2. *You will be on probation for a period of one year. The probation period can be extended if need arises on the basis of your performance.*
3. *You will submit the required documents to the Director Principal of Institute along with the joining report.*
4. *You will not be permitted to leave the job in the mid of the academic session.*
5. *You will be entitled to leave as admissible from time to time as per service conditions and leave rules.*
6. *Other conditions of your service will be governed by the rules and regulations laid down.*
7. *Your appointment is subject to verification of your antecedents. If not found satisfactory or if you commit any act prejudicial to the interest of the Organization/any misconduct/remain absent from duty without permission, your services are liable to be ceased without assigning any reason.*
8. *You will be required to perform all the duties relating to the post and also other duties assigned by the management from time to time without any additional payment.*
9. *One month prior notice is to be given to the Director Principal before resigning from the services.*
10. *10% security amount will be deducted from the salary.*

Yours sincerely,

Sd/- Director Principal

*Chintpurni Medical College & Hospital, Bungal, Pathankot
Village Bungal, Dalhousie Road
Tehsil & Distt. Pathankot, Punjab
Ph.01870-25601 Mob. 080548-60067 Fax. 0870-250073
Website www.cmch.in. Email:jagjiv@hotmail.com.”*

Joining Report

To

*Director Principal
Chintpurni Medical College & Hospital, Bungal,
Pathankot.*

Sub: Joining Report.

Sir,

*As per your appointment letter No.CSES/APP/2013/51-E
dated 29.03.2013. I am submitting my joining report today
29.03.2013 as Statistician-cum-Assistant Professor.*

Thanking you,

Yours sincerely,

Sd/-Miss Yogita”

On juxtaposition, it is discerned that respondent no.4 was not having experience w.e.f. 01.02.2013 to 10.02.2016. In fact, she was issued appointment letter only on 29.03.2013, therefore, there was short coming in three years' experience. The Selection Commission at relevant time rightly rejected her candidature and there was no inadvertence. Subsequent representation on reconsideration do not meticulously examine lack of three years experience. Merit of petitioner and her appointment have not been controverted. The respondents terminated the services of petitioner finding

respondent no.4-Yogita to be more meritorious which in my view is totally fallacious, travesty of justice and not sustainable in view of the aforementioned reasoning.

The impugned order dated 30.03.2018 (Annexure P-5) is hereby set aside. Writ petition stands allowed. Appointment of respondent no.4 is ordered to be quashed. The petitioner is deemed to be in service w.e.f 21.03.2018 (Annexure P-4) and also entitled to consequential benefits, in accordance with law.

October 22, 2019
savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No