

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

**CWP No.26598 of 2018
Date of decision:12.09.2019**

Archana

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Arvind Seth, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

Mr. Anurag Goyal, Advocate
for respondent no.3.

AMIT RAWAL J.

Petitioner being aspirant of PGT Psychology (Rest of Haryana) sought intervention of this Court for considering her candidature despite having secured 97 marks out of 200 marks in written examination as well as in viva-voce under BC-B Category.

The respondent-Haryana Staff Selection Commission caused an advertisement for filling-up the various posts including the post of PGT Psychology (Rest of Haryana) in Secondary Education Department, Haryana, vide advertisement No.4/2015, dated 28.06.2015, total 49 posts of PGT Psychology (including 7 posts of SC Backlog).

Petitioner being fully eligible applied online under BC-B category for the post of PGT Psychology, vide application, Annexure

P-2. On having been issued admit card and sat in written examination, qualified the same.

Mr. Arvind Seth, learned counsel appearing on behalf of the petitioner submitted that respondent-HSSC fixed the date for calling the candidates for scrutiny of documents. After scrutiny of documents, no deficiency was found. Thereafter, list of candidates for interview was uploaded but name of petitioner was not mentioned and only one candidate, securing 86 marks, was called for the interview on 16.10.2018. On enquiry, it was found that respondent has not found petitioner to be qualified as the date of passing M.A. Psychology on the Detailed Marks Certificate (DMC) was of 2017, according to the respondent, it should have been before 2015, at the time of advertisement or on the last date of submission of application form.

He further submitted that in fact, petitioner had uploaded qualification pointing out that she had passed her examination of M.A. Psychology in 2014 but there was an error in the name of her father in certificate which was got corrected and fresh certificate was issued on 08.08.2017 (Annexure P-5) whereas interview was held on 16.10.2018, therefore, petitioner was fully eligible.

This Court, on 15.10.2018 noticing the contention of petitioner issued notice of motion and directed respondents to provisionally interview the petitioner on 16.10.2018.

In response to the aforementioned directions, respondents have produced the result of petitioner in a sealed cover in Court, according to

which, she secured 76 marks out of 160 marks in written examination and 21 marks out of 24 marks in viva-voce , total 97 out of 200 marks.

He further submitted that conditions as envisaged in advertisement specify the condition of holding Master Degree in Psychology which the petitioner had. There was only clerical error with regard to parentage which was rectified. It is not a case where petitioner passed her post graduation after cut off date or submission of application. Attention of this Court was drawn to Annexure P-2, application form disclosing the same. Moreover, conditions in the advertisement do not envisage condition of uploading of educational certificates which were required to be taken alongwith at the time of interview. Thus, objection of respondent regarding non-qualified on the date of submission of the application is wholly baseless and without any substance.

Reply filed on behalf of respondent no.2 is taken on record.

Per contra, Mr. Harish Nain, learned Assistant Advocate General Haryana for the State and Mr. Anurag Goyal, learned counsel appearing on behalf of respondent no.3 submitted that note in the advertisement specified that terms and conditions of eligibility will be determined only as per the last date fixed for receipt of online application and on verification, if at any time, before or after written examination or interview or appointment, found to be not fulfilling the eligibility conditions, candidature would be cancelled. The petitioner remained absent for scrutiny of documents on 14.02.2017 but however was permitted to be interviewed as per interim order of this Court on 16.10.2018. Her name was

not found in merit list of selected candidates identified for interview on account of the fact that certificate dated 08.08.2017 produced was after the cut off date of online application

On a specific query raised by this Court, Mr.Anurag Goyal, Advocate submitted that there were only two posts under BC-B category and one candidate was called having marks “less than” that of petitioner.

I have heard learned counsel for parties, appraised paper book and of view that it is a case where appropriate directions are required to be issued to the respondents for considering candidature of petitioner as on perusal of conditions in the advertisement, it is revealed that petitioner on the date of interview was qualified being Post Graduate in Psychology. It would be in the fitness of things to extract relevant notes for considering the suitability of the candidates which read thus:-

“Note

ii) Qualification and other terms and conditions of eligibility will be determined with regard to the last date fixed for receipt of online application.

iii) Candidates applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application. If on verification at any time before or after the written examination or interview or appointment, it is found that they do not fulfill any of the eligibility condition or it is found that the information furnished is false or incurred their candidature will be cancelled.

iv) Scanned copy of BCA/BCB/SC/PHC/SBC/EBPG certificate issued by competent authority.

Eligibility

a) Matric with Hindi/Sanskrit or 10+2/B.A/M.A with Hindi as one of the subject.

b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers 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 advertisement will be allowed for interview on the basis of acquiring HTET (Test) till the date of interview.

Note: Application 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.

E.Q. M.A. Psychology with at least 50% marks and B.Ed from recognized University.”

As per conditions of the advertisement, documents to be uploaded with the application form are scanned copy of essential qualifications i.e. Matric showing date of birth and mark sheet of

diploma/degree etc, valid eligibility certificate in case of DESM candidates or Sports Gradation Certificate, certificates of reservation, Haryana Domicile Certificate, Aadhar Card, e-challan, coloured photograph, scanned signature and teaching experience certificate whereas the documents required to be brought at the time of interview are as under:-

- “i) All original certificates/documents/testimonials of educational qualifications and other documents mentioned in the online applications and one set of self attested copies of all these certificates.*
- ii) Printed copy of online application form alongwith latest stamp size photograph duly attested by a gazetted officer and pasted on the application form.*
- iii) Original proof of earlier/fresh fee deposited i.e. e-challan etc.”*

On perusal of the application form, Annexure P-2 against the column of M.A. Psychology, petitioner disclosed of having passed M.A. Psychology in 2014 with 1106 marks out of 2000 marks, thus, she was eligible on the date of submission of application. The only ground which weighed in the mind of respondent in rejecting her candidature was that corrected Detailed Marks Certificate of second and third semester was rectified in 2017 i.e. after cut off date.

I am of the view the impugned action of the respondents in rejecting the candidature of petitioner of not fulfilling the conditions is wholly baseless and without any foundation. Annexure P-5 is the certificate

dated 11.10.2018 issued by Superintendent, Maharishi Dayanand University, Rohtak certifying that petitioner appeared in M.A. Psychology 4th Semester Examination held in May 2014 and her result was declared on 11.08.2014 and secured marks 282/500 and thus, she passed her all subject before 11.08.2014.

Since there were two posts reserved for BC-B category and only one candidate has been allowed with lessor marks and one post is vacant, I deem it appropriate to dispose of writ petition with a direction to the respondent-HSSC to recommend case of petitioner to the concerned department for filling-up the post as she fulfilled all requisite qualifications.

Let the aforementioned exercise be undertaken within a period of four weeks from the date of receipt of certified copy of this order.

Writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

September 12, 2019
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No