

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 4018 of 2020
Date of decision: 14.02.2020

Jagdeep Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Gopal Singh Nahel, Advocate,
for the petitioners.

ARUN PALLI, J. (Oral)

Online application forms were invited by the Punjab Public Service Commission (respondent No.3) for recruitment to 141 posts of Agriculture Development Officer (for short, 'ADO') in the Department of Agriculture and Welfare of Farmers, Punjab. In terms of clause 4.1 of the advertisement, for a candidate to be eligible to compete, it was essential to possess a degree in B.Sc. (Agriculture) (with minimum sixty percent marks) from any recognised University or Institution. The petitioners, who qualified B.Sc. (Agriculture) and even possessed a degree in M.Sc. (Agriculture), sought to apply online, but as they did not possess the essential qualification, i.e. B.Sc. (Agriculture) (with minimum sixty percent marks), the system did not accept their applications. It is in this backdrop, a Certiorari is prayed for, to quash the notification dated 28.11.2016 (Annexure P-4), vide which amendment was caused to the Punjab

AT KULU
2020.02.21 14:42
I attest to the accuracy and
authenticity of this document

Agriculture (Group A), Service Rules, 2013, (for short, '2013 Rules'), as also the advertisement No.2, dated 28.1.2020, (Annexure P-1), to the extent, a candidate is required to have passed B.Sc. (Agriculture) with minimum sixty percent marks, being invalid and arbitrary.

Learned counsel for the petitioners submits that recruitment and other conditions of service to the post of ADO are governed by the 2013 Rules, and in terms of Rule 6 of the said Rules, a candidate with a degree in M.Sc. (Agriculture) in 2nd Class was eligible. However, pursuant to the amendment caused to the said Rules on 28.11.2016, the expression, ***“should possess degree in M.Sc. in Agriculture in 2nd Class”***, was substituted with the expression, ***“should possess degree in B.Sc. (Agriculture) (with minimum sixty percent marks).”*** Thus, he submits that without any plausible reason, the essential qualification required for appointment to the post of ADO was lowered from M.Sc. (Agriculture) 2nd Class, to B.Sc. (Agriculture) 1st Class. Further, for the petitioners and the candidates, who are similarly placed, are debarred to compete, clause 4.1 of the advertisement, that envisages essential qualification, is unjust and arbitrary. In essence, it is urged that candidates with higher qualification, i.e. M.Sc. (Agriculture) are considered ineligible, whereas, those with the lower qualification, i.e. B.Sc. (Agriculture), are eligible to apply. He has also placed reliance upon a decision of the Full Bench of this Court in **Manjit Singh Vs. State of Punjab and others, 2010 (3) SCT 703**, to supplement his submission, and asserts that it squarely covers the matter in issue.

We have heard learned counsel for the petitioners and perused the records.

In context of the issue that arises for consideration and before

we proceed any further, it shall be expedient to refer to Clause 4 of the advertisement:-

“4 ESSENTIAL QUALIFICATIONS;

4.1.) Should possess degree in B.Sc. (Agriculture) (with minimum sixty percent marks) from any recognised University or Institution.

Provided that preference shall be given to a person, who possesses a degree in M.Sc. (Agriculture), from any recognised University or Institution.”

Ex facie, it is not the case of the petitioners that despite possessing a degree in M.Sc. (Agriculture), they are ineligible, whereas a candidate, who qualified B.Sc. (Agriculture) is eligible to compete for selection. Significantly, petitioners too possess the basic qualification, i.e. B.Sc. (Agriculture) and have rather acquired a higher qualification for they even possess a degree in M.Sc. (Agriculture). But the short ground because of which they are termed ineligible is: they have not qualified B.Sc. (Agriculture) with minimum sixty percent marks. In fact, a reference to the proviso to Clause 4.1 of the advertisement (*ibid*), is inevitable, at this juncture, which shows that a preference is being given to a candidate who possesses a degree in M.Sc. (Agriculture). Undoubtedly, the petitioners do possess higher qualification, i.e. a degree in M.Sc (Agriculture), but they cannot claim a set off on that count against the requirement of a candidate having qualified B.Sc. (Agriculture), with minimum sixty percent marks, in terms of the eligibility clause. For sure, there would be candidates who are eligible and yearning to compete, and just because the petitioners qualified B.Sc. (Agriculture) in 2nd division and are ineligible, the rule or the eligibility clause cannot be declared invalid. Needless to assert that Rule Making Authorities are best equipped and positioned to determine the

eligibility criteria and/or the essential qualification considering the nature of post that is sought to be filled. Essentially, it is within the domain of the employer to set academic standards and prescribe the basic qualifications in the matter of appointment, and, unless shown to be arbitrary and unjust, the interference by the Court is least warranted. Reliance in this regard can be placed upon a decision of the Supreme Court in **Maharashtra Public Service Commission through its Secretary V. Sandeep Shriram Warade and others, (2019) 6 SCC 362:**

“The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being at par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review....”

Even otherwise, we find that qualification of prescribing minimum sixty percent marks in B.Sc. (Agriculture) is in furtherance of the object sought to be achieved, namely, selection of candidates having sound basic knowledge in agriculture. Those having higher qualifications have also been given due importance as the candidates possessing M.Sc. degree in Agriculture are to be given preference, subject to their possessing the basic eligibility of B.Sc. (Agriculture) with sixty percent marks. There is intelligible difference between those who have obtained sixty percent and above marks in B.Sc. (Agriculture) and those who fall short of the said

mark. Thus, the qualification is based on intelligible differentia between the petitioners and those who obtained more than sixty percent marks.

Needless to assert that onus was upon the petitioners to show as to how and on what grounds, the eligibility clause that requires a degree in B.Sc. (Agriculture) with minimum sixty percent marks is unfair, irrational or arbitrary. Which they have apparently failed to discharge. No factual foundation, as would be necessary, is laid in the petition either, nor any material is placed before us in this regard. It would be apposite, at this juncture, to refer to the decision of the Supreme Court in **V.S. Rice and Oil Mills Vs. State of Andhra Pradesh**, AIR 1964 SC 1781:

“This Court has repeatedly pointed out that when a citizen wants to challenge the validity of any statute on the ground that it contravenes Art. 14, specific, clear and unambiguous allegations must be made in that behalf and it must be shown that the impugned statute is based on discrimination and that such discrimination is not referable to any classification which is rational and which has nexus with the object intended to be achieved by the said statute.”

Likewise, it would be expedient to refer to certain observations recorded in **Amrit Banaspati Co. Ltd. Vs. Union of India and others**, (1995) 3 SCC 335:

“....the allegations regarding the violation of constitutional provision should be specific, clear and unambiguous and should give relevant particulars, and the burden is on the person who impeaches the law as violative of constitutional guarantee to show that the particular provision is infirm for all or any of the reasons stated by him.”

Adverting to the decision of the Full Bench in **Manjit Singh (supra)**: the dispute in the said case was that petitioners therein despite being Bachelor of Physical Education (B.P.Ed.) or Masters of Physical Education (M.P.Ed.) were considered ineligible as the minimum qualification for appointment to the post of Physical Training Instructor (PTI), required a candidate to possess a Certificate in Physical Education (C.P.Ed.). Upon consideration of the matter, the Full Bench, in reference to another decision rendered by the Division Bench of this Court in **Multan and others Vs. State of Haryana and another, 2004 (4) SCT 45**, concluded that D.P.Ed./B.P.Ed./M.P.Ed., were higher qualifications in the same line. Further, from the curriculum courses of C.P.Ed., B.P.Ed., and D.P.Ed., it was found that almost all components of C.P.Ed. course of one or two years were taught in D.P.Ed., course in almost all the Universities in the States of Punjab and Haryana. It was in this background, it was held that denying consideration to a candidate having better and higher qualification in the same line and discipline would result in breach of Articles 14 and 16 of the Constitution of India. However, as demonstrated above, such is not the position in the matter at hands, and therefore, reliance upon the said decision is wholly misplaced.

In the wake of the above, the only and the inevitable conclusion one could reach: challenge to the notification dated 28.11.2016 (Annexure P-4), as also the eligibility clause set out in the advertisement, must fail.

The writ petition being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)

CHIEF JUSTICE

February 14, 2020

AK Sharma

Whether speaking / reasoned:

Whether Reportable:

(ARUN PALLI)

JUDGE

YES

Y

AMIT KUMAR
2020.02.21 14:42
I attest to the accuracy and
authenticity of this document