

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

Date of Decision: 10.02.2020

1.

CWP No.15501 of 2014

Kuldeep Singh

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

2.

CWP No.17014 of 2014

Sarita Yadav

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. B.P.S. Virk, Advocate,
for the petitioner (in CWP No.15501 of 2014).

Mr. Ashok Bhardwaj, Advocate,
for the petitioner (in CWP No.17014 of 2014).

Mr. Randhir Singh, Advocate,
for respondent-Haryana.

Mr. Johan Kumar, Advocate,
for respondent No.4 (in CWP No.15501 of 2014).

RITU BAHRI, J. (ORAL)

This order will dispose of CWP No.15501 of 2014 and CWP
No.17014 of 2014 together as common questions of law and facts are
involved in both the petitions. For reference, facts are being taken up from
CWP No.15501 of 2014.

Petitioner (in **CWP No.15501 of 2014**) is seeking quashing of the order dated 25.06.2014 (Annexure P-20), whereby his representation for recalculation of marks by adding one mark of NCC 'B' certificate, has been rejected.

Pursuant to advertisement dated 07.06.2012 (Annexure P-12), petitioner participated in the selection process for the post of PGT (Hindi). After clearing the written examination, he appeared for verification/scrutiny of documents-cum-interview on 31.01.2013. As per final result, he was awarded 55.69 marks by giving of one mark for NCC 'C' certificate. Last candidate selected under the General category has secured 56.1 marks.

Grievance of the petitioner is that he should have been given one mark for NCC 'B' certificate. Learned counsel for the petitioner states that as per certificate program, NCC 'C' certificate is meant for the Senior Division and is granted only if, the candidate has obtained 'B' certificate in NCC. If, a candidate produced 'C' certificate, then he must have acquired NCC 'B' certificate. The petitioner has produced NCC 'C' certificate at the time of interview, but he has been awarded only one mark for NCC 'C' certificate. One mark for NCC 'B' certificate has not been given to him.

Upon notice, written statement on behalf of the respondents has been filed, wherein it has been admitted that NCC 'C' certificate is granted to the candidate, who has already obtained NCC 'B' certificate. However, in the case of petitioner, it is stated that at the time of interview, he had produced only one certificate i.e. NCC 'C' certificate and accordingly, he was granted one mark for the same. In the absence of production of NCC 'B' certificate, he cannot be granted one mark.

Learned State counsel has vehemently argued that the said document i.e. NCC 'B' certificate was required to be produced by the petitioner at the time of interview to claim one more mark. If, the petitioner is awarded one mark in the absence of such document, it would cause prejudice to all other candidates, who have participated in the selection process.

A perusal of the order dated 26.09.2018 passed by this Court shows that learned counsel for the petitioner had supplied an information on the vacancy position under advertisement No.1/2012, which showed that 04 posts under the General category, 01 under BC-B and 02 posts under ESM category were still lying vacant. The respondent-State was directed to file a specific affidavit giving details of all the vacancies advertised, whether filled or not.

Pursuant to the order dated 26.09.2018, an affidavit dated 18.04.2019 was filed by the Additional Secretary to Government of Haryana, Secondary Education Department. In this affidavit, it has been stated that against 04 posts, which remained vacant for General category, 03 candidates namely, Smt. Karunesh, Smt. Santosh and Sh. Mukesh Kumar Sharma have already joined. Hence, 01 post was lying vacant as on 18.04.2019. With respect to the BC-B category, no candidate has joined. Hence, one post under the BC-B category is also lying vacant. It is further stated in the affidavit that some of the candidates, lower in merit than the General category, had approached this Court by filing CWP No.25682 of 2014, which was allowed on 13.11.2017. Against the said judgment, LPA No.2435 of 2017 was filed, which was disposed of by this Court on 23.08.2018 by observing that if, vacancies are existing, then all other

candidates have a right to be considered for appointment in view of the existing position.

In the facts of the present case, it was the responsibility of the respondents (selection board) to check that petitioner had appeared for interview only with one certificate i.e. NCC 'C'. In the written statement, official respondents have not disputed that NCC 'C' certificate is given to a candidate, who has got NCC 'B' certificate. In these circumstances, respondents could have given one more mark to the petitioner, who had produced NCC 'C' certificate, instead of denying his claim.

In para No.18 of the written statement, the respondents have admitted that as per certificate programme, NCC 'C' certificate is always awarded to a person, who has got NCC 'B' certificate. Since the petitioner has got NCC 'C' certificate, he must have acquired NCC 'B' certificate. This fact was in the knowledge of respondent-Commission and it was their duty to allow the petitioner to get that certificate instead of denying one mark to him. Hence, the petitioner has a right to be awarded one mark for having acquired NCC 'B' certificate. By doing so, his total marks would be 56.69, which are higher than the last candidate selected in the General category, who has secured 56.1 marks. Moreover, as per affidavit dated 18.04.2019 filed on behalf of respondents, one post under the General category is lying vacant.

In view of the above, a direction is given to the Selection Board to recommend the names of petitioner-**Kuldeep Singh** (in CWP No.15501 of 2014) for appointment to the post of PGT (Hindi) under General category and petitioner-**Sarita Yadav** (in CWP No.17014-2014) under BC category after awarding them one mark each for NCC 'B' certificates, within a period

of 15 days from the receipt of certified copy of this order and thereafter, the Director, School Education, Haryana-respondent No.2 will issue appointment letters to them within next 15 days. The petitioners will be given appointments notionally from the date, persons junior to them, have been appointed along with all consequential benefits.

Both the petitions i.e. CWP No.15501 of 2014 and CWP No.17014 of 2014 are allowed accordingly.

(RITU BAHRI)
JUDGE

10.02.2020
ajp

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