

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
215.**

Date of decision: 30.01.2020

CWP-15364-2016

HARJEET SINGH

V/S

...PETITIONER

STATE OF PUNJAB & ORS

..RESPONDENTS

WITH CWP-18928-2016

GURPREET SINGH

V/S

...PETITIONER

STATE OF PUNJAB & ORS

..RESPONDENTS

WITH CWP-23544-2016

PAWAN KUMAR

V/S

...PETITIONER

STATE OF PUNJAB AND ORS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. G.S.Sandhu, Advocate,
for Mr. Arvind Moudgil, Advocate,
for the petitioner in CWP No. 15364 of 2016.

Mr. R.S.Randhawa, Advocate,
for Mr. Chanchal K. Singla, Advocate,
for the petitioner in CWP No. 18928 of 2016.

Mr. Dharampal Gill, Advocate,
and Mr. G.P.S.Bal, Advocate,
for the petitioner in CWP No. 23544 of 2016.

Mr. Charanpreet Singh, AAG, Punjab,
for the State.

Mr. Ajaivir Singh, Advocate,
for respondent No. 2 in CWP No. 15364 of 2016.

Mr. Amit Singh Sethi, Advocate,
and Ms. Harsharanpreet Kaur, Advocate,
for respondent No. 4 in CWP No. 15364 of 2016.

Mr. H.S.Saini, Advocate,
for respondents No. 5 to 7, 9 and 10 in CWP No. 15364 of
2016.

Mr. Abhishek Kaushik, Advocate,
for Mr. Vijay K. Jindal, Advocate,
for respondent No. 4 in CWP No. 18928 of 2016.

AUGUSTINE GEORGE MASIH, J.

By this order, I propose to decide three writ petitions i.e. CWP Nos. 15364, 18928 and 23544 of 2016, where the common question involved is as to which is the cut off date fixed in the advertisement to determine eligibility of a candidate i.e. the last date of receipt of the applications or the date on which the candidates are called upon for the scrutiny of their documents; and would the candidates, who attain or are able to possess the requisite qualifications during the interregnum, be held eligible for appointment to the post advertised.

2. In these writ petitions, an advertisement was issued by the Department of School Education dated 20.11.2015 inviting applications from the candidates for filling up the posts of Lecturers in different subjects. For each subject, for which the Lecturers were required, the posts were specified. It is in pursuance to the said advertisement, petitioners in these writ petitions have applied for the post of Lecturer. In CWP No. 15364 of 2016, petitioner had applied for the post of Lecturer (History), for which 90 posts were advertised. In CWP Nos. 18928 and 23544 of 2016, petitioners had applied for the post of Lecturer (Economics).

3. The requirement for the post of Lecturer was also specified, according to which, the prospective candidate was required to possess a valid Master's degree (M.A.) in the subject for which the candidate had applied for and should also possess Bachelor's degree in Education (B.Ed.) from the recognized University. Petitioners, admittedly, on the last date of submission of the application forms i.e. 12.12.2015 did not possess the requisite qualification of Master's degree in the concerned subject.

4. In the case of petitioner in CWP No. 15364 of 2016, the degree of the petitioner of Master of Arts was dated 21.03.2016. In CWP No. 18928 of 2016, the degree of Master of Arts is dated 29.03.2016 and in CWP No. 23544 of 2016, the result of the petitioner was declared on 25.02.2016 of Master of Arts in Economics. This clearly establish the fact that the petitioners had passed the qualifying Post Graduation examination after the last date of receipt of the applications i.e. 12.12.2015. Counsel for the petitioners also could not dispute this fact that the petitioners did not possess the requisite Post Graduation qualification on the last date of submission of the applications i.e. 12.12.2015. However, the stand of the petitioners, as has been projected during the arguments, is that the scrutiny of the documents had taken place in the month of November/December, 2016, by which date the petitioners had the requisite educational qualifications and, therefore, were eligible for consideration for appointment to the post of Lecturers. It is contended that as the petitioners had the requisite qualifications prior to the date when consideration for appointment had taken place i.e. the scrutinization of the documents/certificates, their candidature could not have been rejected. To support their claim, they have placed reliance upon a judgment of the

Supreme Court in **Dolly Chhanda vs. Chairman, JEE**, 2005 (9) SCC 779.

Reliance has also been placed upon a judgment of the Rajasthan High Court in **Hemlata Meena vs. State of Rajasthan**, 2019 (1) W.L.C. 755 as also on the judgment of the Supreme Court in **Food Corporation of India vs. Rimjhim**, 2019 (5) SCC 793. Reliance has also been placed upon a judgment of this Court in the case of **Nitin Sood vs. State of Punjab and others**, decided on 18.03.2015.

5. On the other hand, learned counsel for the State has submitted that in the advertisement, which has been issued, it was clearly mentioned that the candidates' certificates of academic/professional qualifications and other certificates of various categories must have been issued prior to the last date of submission of the application forms i.e. 12.12.2015 and a certificate issued after the expiry of the last date of submission of the application forms will not be considered. The candidates being fully aware of the said fact, at the outset, that they were not eligible at the time of submission of the application, still applied for the same. They, therefore, are not entitled to be considered for appointment and their applications have been rightly not considered and candidature rejected because of they being not qualified on or prior to the cut off date fixed in the advertisement.

6. Counsel for the State has placed reliance upon a judgment of this Court in CWP No. 14306 of 2016 titled as **Sarbjit Singh vs. State of Punjab and others**, decided on 17.05.2018. Letters Patent Appeal preferred against the said judgment i.e. LPA No. 833 of 2018 has also been dismissed by the Division Bench of this Court on 17.07.2018.

7. Reliance has also been placed upon a judgment of this Court in CWP No.22198 of 2012 titled as **Charanjit Kaur vs. State of Punjab and**

another, decided on 16.02.2016, where it has been held that the cut off date cannot be extended unless notified and in these cases, the last date for receipt of the applications has not been extended, therefore, the date, up to which the candidates were required to possess the educational qualifications, was 12.12.2015. Prayer has, thus, been made for dismissal of these writ petitions.

8. I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the records of the case.

9. In the Advertisement dated 20.11.2015, an important Note was given which reads as follows:-

“ The candidates' certificates of academic/professional qualifications, certificate of various categories for claiming benefit of reservation like S.C., B.C., L.D.C., Sports Gradation, Handicap and Freedom Fighter and other requisite certificate etc. must have been issued prior to the last date of submission of application forms i.e. 12.12.2015. The certificate issued after the expiry of the last date of submission of application form will not be considered.”

10. A perusal of the above important Note in the Advertisement dated 20.11.2015 would leave no manner of doubt that all the candidates were put to notice that they must possess certificates of academic/professional qualifications as also various other categories where they intended to claim benefit of reservation which must have been issued prior to the last date of submission of application forms i.e. 12.12.2015.

Apart from this, it was also specified that the certificates issued after the

expiry of the last date of submission of application forms will not be considered. Therefore, the petitioners cannot plead ignorance. Petitioners, admittedly, have obtained their Master's degree in the respective subjects after the last date of submission of the application forms i.e. 12.12.2015. That being so, the candidature of the petitioners has rightly been rejected by the respondents.

11. The plea of the petitioners that on the date of scrutiny of the documents/certificates they possessed the requisite qualifications, would not make them eligible for consideration for appointment as such a plea, which has been taken, if accepted, would amount to giving the petitioners an undue benefit which would deprive the similarly placed candidates who would have not applied for the post of Lecturer keeping in view the important Note in the Advertisement dated 20.11.2015, referred to above. The law is well settled with regard to the mandate of the advertisement which has the force of law as the advertisement not only guides the recruitment process but controls it also within those limits as every party to it is bound by the same. This aspect has been duly considered by this Court in Sarbjit Singh's case (supra), where it has been held that the conditions laid down in the advertisement have force of law and are applicable to all the candidates seeking appointment. No change can be made in the terms and conditions of the advertisement without notifying the same to enable all those prospective candidates, who would have become eligible on the basis of such changed eligibility conditions. It was further stated that the candidates cannot be allowed to submit the requisite documents after the cut off date otherwise, similarly placed persons can also take the plea and the applications of such candidates, who did not fulfil the conditions laid down

in the advertisement, are required to be rejected in terms of the advertisement which is universally applicable to all the candidates. This Court, while coming to this conclusion, has placed reliance upon a judgment of the Supreme Court in **Ashok Kumar Sharma and others vs. Chander Shekhar and another**, 1997 (2) SCT 123 and a Division Bench judgment of this Court in **Anil Kumar and others vs. State of Haryana and others**, 2009 (2) SLR 729. This judgment has also been upheld by the Division Bench of this Court, as mentioned above. In view of the above, the contentions of the counsel for the petitioners cannot be accepted.

12. The judgments, on which reliance has been placed by the learned counsel for the petitioners, would not be applicable to these cases as in Dolly Chhanda's case (supra), the same was a case of appointment in Medical Course where a cut off date was fixed and the Court had reiterated that the cut off date is sacrosanct and the eligibility conditions should be filled prior thereto but in that peculiar case, a candidate, who was otherwise eligible prior to the cut off date, was issued earlier than the cut off date an eligibility certificate by the Sainik Board which contained some mistakes, which was, after correction, re-submitted and it is under these circumstances that the Court had proceeded to grant that opportunity of relaxation especially when there was a condition prescribed of such relaxation holding it to be a procedural requirement in the advertisement, so issued, which is not the case here. It has been emphasized upon and specified that the last date was sacrosanct.

13. In Food Corporation of India's case (supra), appointment was being denied to the original petitioner on the ground that the certificate of one year's experience along with the application had not been produced by

her. The Hon'ble Supreme Court, in para-9, has clearly mentioned that the advertisement did not specify such a requirement and the requirement, as per the advertisement, was that the candidate must have one year's experience of translation from English to Hindi and vice-versa along with the other qualifications. It was, therefore, concluded that the requirement of submission of the experience certificate along with the application was not a part of the advertisement. The said judgment also, therefore, would not be applicable to these cases.

14. The judgment in Hemlata Meena's case (supra), would also not be applicable to these cases as it is not a case where the candidates are stating that their result has been declared prior to the last date of receipt of the applications as the result has been declared after the cut off date. The said judgment also would not be applicable where the result had been declared earlier but the Marks-Sheet was issued later on.

15. In Nitin Sood's case (supra), the petitioner had passed his B.A. Part-III examination and was fully eligible for being considered for the post of Clerk except for the result of B.A. Part-II (English Examination) not being declared where there was a compartment. In the said case, this Court, on the basis of the confidential result sent by the Punjabi University, Patiala to the S.S. Board, Chandigarh (Examining Body), clearly mentioned that the petitioner had passed B.A. Part-II (English Examination) prior to the cut off date, therefore, the Court had held that there was no impediment with regard to the eligibility of the candidate is concerned as the examining body was aware of the result of the candidate. The said judgment, therefore, on facts is distinguishable and would not apply to the case in hand. Similar view has been taken by this Court in Charanjit Kaur's case (supra) and in LPA No.

833 of 2018.

16. The answer to the question as culled out above is that the cut off date fixed in the advertisement to determine eligibility of a candidate is the last date of receipt of the application and not the date fixed for the scrutiny of the documents/certificates of the candidates.

17. In view of the above, the contentions of the counsel for the petitioners cannot be accepted as the petitioners did not possess the requisite academic qualifications prior to the last date of submission of the applications i.e. 12.12.2015 as mandated in the Advertisement dated 20.11.2015.

18. Accordingly, these writ petitions are dismissed.

January 30, 2020
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No