

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220+221

CWP-13585-2021

Date of decision: 12.08.2021

Gurkirat Singh

.....Petitioner

versus

State of Punjab and another

.....Respondents

CWP-13430-2021

Simranpreet Singh

.....Petitioner

versus

State of Punjab and another

.....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Mohit Jaggi, Advocate
for the petitioner in CWP-13585-2021.
Mr. Krishan Singh Dadwal, Advocate
for the petitioner in CWP-13430-2021.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

(the aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court on account of restrictions due to COVID 19)

GIRISH AGNIHOTRI, J. (Oral)

This order shall dispose of two writ petitions i.e. **CWP-13585-2021** titled as **Gurkirat Singh vs. State of Punjab and another** and **CWP-13430-2021** titled as **Simranpreet Singh vs. State of Punjab and another**.

For the sake of brevity, the facts have been taken from CWP-13585-2021.

For the facts and grounds noticed hereunder, this Court finds no merit in these writ petitions and the same deserve to be dismissed.

Petitioner-Gurkirat Singh, stated to be aged 21 years, has filed

the present petition *inter alia* with a prayer for issuance of a writ in the nature of mandamus for directing the respondents to consider the candidature of the petitioner, who is appearing in the final semester of his Bachelor's Degree, as an eligible candidate for the posts of Sub Inspector (District Police Cadre), Sub Inspector (Armed Police Cadre), Intelligence Officers (Intelligence Cadre), Sub Inspector (Investigation Cadre) advertised vide advertisement No.1 of 2021 dated 06.07.2021 (Annexure P-1).

This Court, on 28.07.2021, had issued notice of motion. In response thereto, short reply has been filed by way of an affidavit of Mr. Patil Ketan Baliram, IPS, Assistant Inspector General Personnel-2, Punjab, on behalf of respondents No.1 & 2.

Learned counsel for the petitioner, based on the pleadings in the petition, submits that the petitioner had passed his Higher Secondary Examination. Thereafter, he took admission in B.A. (Political Science) in the year 2018 in Panjab University, Chandigarh. The petitioner has appended marksheets of BA-1st semester, BA-3rd semester and BA-5th semester, as Annexures P-4 to P-6 respectively. It is the pleaded case that examination of 4th semester were not held on account of COVID-19 pandemic. It is further submitted that even examination for the last semester i.e. 6th semester, have been delayed. The petitioner has further referred to a circular of Panjab University, dated 16.06.2021 (Annexure P-7), to submit that w.e.f. 28.06.2021, the examinations of these semesters shall be held online.

The case put up by the petitioner is that, had the examinations for graduation Degree Course not been delayed on account of COVID-19 Pandemic, the petitioner would have been eligible for applying in pursuance to the advertisement dated 06.07.2021, for posts of Sub Inspector in various cadres of Punjab Police.

In the advertisement, closing date for submission of online applications, had been fixed as 27.07.2021. Under the head 'Essential eligibility requirements for candidates' in Clause 5.3 at Sr.No.1, it is the requirement that candidate should be a graduate from the recognized university or its equivalent and the same is required on or before closing date of submission of online applications.

The respondents, in their reply, have taken a stand that vide Notification dated 16.02.2013 (Annexure R-1), Punjab Police Rules, in specific Rule 12.6 was amended and notified. It is submitted that the requirement in the advertisement to possess qualifications for a candidate to apply for the post of Sub Inspector, is as per the statutory rules.

This Court is of the view that reading of the Rule clearly provides that no person shall be accepted 'as an eligible candidate' (*emphasis added*). It is thus evident that a person can be accepted as an eligible candidate if he is a graduate from a recognized university. It can also be seen that the last date prescribed in the advertisement is 27.07.2021 and in view of the Rule, candidate can only treat himself to be eligible candidate if he possesses qualifications of being graduate by the said date.

Therefore, this Court finds that the petitioner does not have a legal right to insist that he should be treated as an eligible candidate.

The second ground taken in the reply is that the petitioners have chosen not to challenge the Rules 12.6 of Punjab Police Rules, in pursuance of which, the advertisement has been made.

Learned State counsel has further submitted that the petitioner (s) have also not chosen to challenge the Clause of the advertisement, wherein, this condition has been imposed. It has been further the stand of the State that the writ petition of the petitioner(s) is not maintainable as no fundamental much less legal right of the petitioner(s) has been infringed. It is submitted that the petitioner has merely prayed for a writ of mandamus. By relying upon the judgment of the Hon'ble Supreme Court of India in the case of *Dr. Raj Shivendra Bahadur vs. The Governing Body of the Nalanda College* reported as *1962(2) Supp.SCR 144*, it has been pleaded that in order that mandamus may be issued; to compel an authority to do something, it must be shown that the Statute imposes a legal duty on that authority and the aggrieved party has a legal right under the Statute to enforce its performance.

At this stage, learned State counsel relies on judgment *dated 11.08.2021*, passed by this Court in *Navdeep Singh Brar and others vs. State of Punjab and another*, to submit that on issuance of the advertisement dated 06.07.2021, the selection process has been initiated. More than one lac persons have applied for the same, for which the respondents have made adequate arrangements and the written test is to be

conducted on 17.08.2021. It is therefore prayed on behalf of the respondents that all candidates are being given equal treatment and therefore the petitioner(s) cannot claim any special treatment.

This Court finds force in all the submissions made by learned counsel for the State.

The writ petition filed by the petitioner cannot succeed as the petitioner has chosen neither to challenge the rule nor the Clause of the advertisement. This Court has already taken the above view in ***Navdeep Singh Brar's case (supra)***, which may also be read as part of the present order. It is also deemed appropriate to reproduce Rule 12.6 of Punjab Police Rules, which is as under:-

.....“12.6 *Eligibility conditions for direct appointment to the post of Sub-Inspector; No person shall be accepted as an eligible candidate for direct recruitment to the post of Sub-Inspector, unless he fulfils the following conditions, namely:-*

- (a) *bears good moral character;*
- (b) *has good physique and active habits;*
- (c) *is between 18 to 25 years of age;*

Provided that the Director General of Police may, for the reasons to be recorded in writing, relax the upper age limit under special circumstances; and

- (d) *must be a graduate from a recognised university or its equivalent and should have passed Punjabi up to matriculation standard.”*

It is also pertinent to mention here that the Hon'ble Supreme Court of India in para 13 of the judgment of ***Bhupinderpal Singh and others vs. State of Punjab*** reported as ***2000(2) SCT 826***, had observed as

under:-

.....“13. Placing rallance on the decisions of this Court in Ashok Kumar Sharma v. Chander Shekhar & Anr., JT 1997 (4) SC99: 1997(2) SCT 208 (SC); A.. Public Service Commission v. B. Sarat Chandra & Ors., 1990 (4) SLR 235; The Distt. Collector and Chairman, Vizianagaram (Social Welfare Residential School Society) Vizianagaram and Anr. v. M. Tripura Sundari Devi, 1990 (4) SLR 237; Mrs. Rekha Chaturvedi v. University of Rajasthan & Ors., JT 1993(1) SC 220 : 1993 (2) SCT 279 (SC); Dr. M.V. Nair v. Union of India & Ors., 1993(2) SCT 77 (SC); and U.P. Public Service Commission, U.P., Allahabad & Anr. v. Alpana, JT 1994 (1) SC 94 : 1994(1) SCT 701 (SC), the High Court has held (i) that the cut off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules and if there be no cut off date appointed by the rules then such date as may be appointed for the purpose in the advertisement calling for application; (ii) that if there be no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications have to be received by the competent authority. The view taken by the High Court is supported by several decisions of this Court and is therefore well settled and hence cannot be found fault with. However, there are certain special features of this case which need to be taken care of and justice done by invoking the jurisdiction under Article 142 of the Constitution vested in this Court so as to advance the cause of justice.”

This Court finds that the petitioner in the present case, as conceded, as per averments in the petition, has not acquired the Educational qualifications which are statutorily required under Rule 12.6 of the Punjab Police Rules for a person to be accepted as an eligible candidate. Therefore this Court finds no merit in the writ petition and the same is dismissed.

Briefly, the facts which were involved in the aforementioned *Bhupinderpal Singh's case (supra)* were that on 12.01.1996, advertisement was issued by the Education Department, Punjab, inviting the applications for appointment of 3025 Teachers.

The petitioners in the aforementioned judgment, did not fulfill requisite educational qualification, on the date of making of application and not even on 15.02.1996 i.e. the last date of making applications. Although, it has been noticed that by 30.10.1996 (the last date for making the applications as appended by the corrigendum dated 07.10.1996), the petitioners therein, had acquired the requisite educational qualification.

However, in the peculiar facts of the present writ petition, there is no corrigendum that the Government has issued nor is there any stipulation in the rule that candidate has to acquire the eligibility qualification on a later date, therefore this Court is of the view that no infirmity much less illegality can be found in the action of the respondents in fixing the cut off date as last date of application i.e. 27.07.2021 for a candidate to acquire educational qualification of graduation.

Ordered accordingly.

No order as to costs.

(GIRISH AGNIHOTRI)
JUDGE

12.08.2021
anju rani

Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No