

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

RSA No.2211 of 2019 (O&M)

Date of decision: 11th March, 2022

The Managing Committee Babu Anant Ram Janta College
Vill. Kaul, Tehsil Dhand, District Kaithal

... Appellant

Versus

Barjender Singh & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Ms. Aashima Narula, Advocate for
Mr. Hemant Bassi, Advocate for the appellant.

Mr. R. Kartikeya and Ms. Ridhi Bansal, Advocates
for respondent No.1.

Service of respondents No.2 to 5 – dispensed with.

FATEH DEEP SINGH, J.

The very short point that erupts in this appeal is the very entitlement of the then plaintiff Barjender Singh (now respondent) to the post of Assistant Professor, Health and Physical Education in the plaintiff college. The background of the *lis* emancipates when the appellant college invited applications for the post of Assistant Professor in the subject of physical education on regular basis vide advertisement Ex.P1 dated 08.04.2013. Upon constitution of the selection committee, the plaintiff was interviewed and was finally selected to the said post and recommended at serial number 1 of the list of successful candidates. It is by another quirk of fate, CWP No.22918 of 2013 titled 'Kuldeep Singh vs. State of Haryana and others' was filed by one of the candidates before

this Court laying challenge to the said selection, as a consequence of which the defendant did not issue any appointment letter to the plaintiff although vide order dated 27.09.2016 this Court had dismissed the said writ petition. The plaintiff has submitted his original certificates vide letter dated 23.11.2016 for verification but nothing materialized leading to the filing the present suit.

The lone defence of the defendants No.1 and 2 (as others did not contest) was of usual denial trying to hide under the plea that the Vice Chancellor and Director did not approve of this selection and sought dismissal of the suit. Defendants No.4 and 5 besides this, had taken the usual plea that the plaintiff did not fulfill requisite qualifications as to the marks prescribed to be obtained in Senior Secondary Examination and thus, suppressed the material facts.

Trial Court framed the following issues:-

1. Whether plaintiff is selected for the post of Assistant Professor of Physical Education in the college of defendant No.5 being eligible and recommended at Serial No.1 in preference to other candidates by the Selection Committee ? OPP
2. Whether the defendant is liable to issue appointment letter to the plaintiff for the said post? OPP
3. Whether the plaintiff has concealed true and material facts from the Court ? OPD

4. Whether the suit of the plaintiff is not maintainable as plaintiff has failed to fulfill necessary requirements for the said post? OPD
5. Whether plaintiff has no cause of action or locus standi to file the present suit? OPD
6. Relief.

The plaintiff examined PW1 Surender Kumar and himself testified as PW2 through affidavit Ex.PW2/A and proved documents Ex.P1 to Ex.P35.

Defendants on the other hand, examined DW1 Surender Kumar through affidavit Ex.DW1/A and proved document Ex.DA. In rebuttal, plaintiff examined Surinder Kumar as PW3 and closed the evidence. It is subsequent thereto, vide judgment and decree dated 07.04.2018 the Court of learned Civil Judge (Jr. Divn.), Kaithal partly decreed the suit recommending the plaintiff being at serial number 1 for the said post. The same was challenged by the unsuccessful defendants in appeal and the Court of learned Additional District Judge, Kaithal vide impugned judgment and decree dated 14.01.2019 dismissed the appeal with costs of Rs.25,000/- and that is how the parties are before this Court.

In view of the recent pronouncement in **‘Kirodi (since deceased) through his LR vs. Ram Parkash & others’ Civil appeal No.4988 of 2019; SLP(C) No.11527 of 2019 decided on 10.05.2019**, the Hon’ble Supreme Court has clearly held under Section 41 of the Punjab

Courts Act, 1918 which has its application to the States of Punjab and Haryana, that there is no necessity of framing substantial question of law for disposal of an appeal.

Appreciating the submissions, it is fairly conceded at the bar that Ex.P35, which is as an outcome of modifications in service rules 2010 as approved by the State Government, details the minimum requirements enabling a candidate to apply for such post under which it was laid as under:-

“NET shall remain the minimum eligibility condition for recruitment and appointment as lecturer in College.

Provided, however that the candidates possessing Ph.D. degree shall be exempted from the requirement of the minimum eligibility condition of NET for recruitment and appointment as Assistant Professor or equivalent positions in Colleges.

Provided, further that Ph.D. degrees awarded by State/Central Universities and only those private universities which have been accredited as “A” grade universities by the National Assessment and Accreditation council (NAAC) shall be considered for relaxation in lieu of NET.

Provided, that the candidate should possess the Ph.D. degree at the time of submission of the application.

NET shall not be required for such Master’s programmes in disciplines for which there is no NET.”

Thus, as has been submitted on behalf of the respondent by Mr. R. Kartikeya and Ms. Ridhi Bansal, Advocates, the fact that the plaintiff at the relevant time possessed Ph.D. degree has not been

displaced and therefore, under these Rules of 2010 the plaintiff fully qualifies for the said post and having been selected as such at serial number 1, certainly is entitled to get job with the defendant college.

Though on behalf of the appellant, Ms. Aashima Narula, Advocate appearing for Mr. Hemant Bassi, Advocate has laid much stress on the fact that as per Ex.P2, bio-data of the candidates applying for such posts, under serial number 2 shows that the plaintiff had secured 72.38 percent marks in the Senior Secondary/ Intermediate Examination and in fact as per his certificate Ex.P8 has secured only 46 percent marks. To the specific query of this Court how under the advertisement, minimum marks for such a Job were prescribed essential for the candidate, learned counsel for the appellant was squarely at loss of words. The only qualifications which have been prescribed for this post are well enumerated in the advertisement Ex.P1 and which learned counsel for the appellant could not displace.

Though much arguments have come about from the appellant side over allowing of application for additional evidence by the Court below however, the said application was purely for placing on record copy of application-form of the plaintiff and documents regarding revised criteria, copy of experience certificate and certificate of SLET; and it has been rightly concluded by the Court below that the same was irrelevant for the purpose of decision of the matter and which finding does not have much to affect the merits of the instant case.

The plea of the appellant that the plaintiff's case was based on falsehood and therefore disentitles him to any relief, could not be convincingly established on the record in the submissions of learned counsel for the appellant. The trial Court holding that the Haryana Affiliated College (Security of Service) Rules, 2002 provides recruitment to this service by direct selection through Selection Committee which is further forwarded to the respective Vice Chancellor and Director for approval and it clearly establishes and remains unrebutted that he was placed at serial No.1 of this list. How there has been misguiding of the facts by the plaintiff and rather the claim that the biodata furnished by the plaintiff Ex.P2 at serial No.2 wrongly depicts the marks, is highly imaginary and it is nothing but a computerized list of biodata of all the aspirants prepared by the college and does not show that it is furnished by the plaintiff or is in his handwriting and therefore, the plaintiff cannot be held responsible for such entries and there is no concealment of any material fact by the plaintiff at the time of submission of his application form, besides the fact that 10+2 was not an essential qualification prescribed for being considered for such post and has thus not much relevance. The trial Court has considered at length and has correctly given its findings on the various issues which needs to be upheld and so is in the impugned judgment and decree of the learned first appellate Court which has rightly dismissed the appeal of the appellant college.

This Court does not feel inclined to show any indulgence in the present appeal which stands dismissed accordingly.

(FATEH DEEP SINGH)
JUDGE

March 11, 2022

rps

Whether speaking/reasoned	Yes/No
---------------------------	--------

Whether reportable	Yes/No
--------------------	--------