

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 15.09.2022

(I) CWP-14933-2021 (O&M)

Vijay Sharma

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

(II) CWP-16390-2021 (O&M)

Jasbir Singh Bath

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. A.S. Rai, Advocate,
Mr. J.S. Thind, Advocate,
for the petitioner(s).

Ms. Anu Chatrath, Addl.A.G., Punjab.

MAHABIR SINGH SINDHU, J.

By this common order, two writ petitions are being disposed off as issue involved is common. For the sake of convenience and brevity, facts are noticed from CWP No.14933-2021.

2. Present writ petition has been filed under Article 226 of the Constitution for quashing of impugned notice/announcement dated 28.06.2021 (P-7), whereby, applications of the petitioner were rejected

for the post(s) of Member, District Consumer Disputes Redressal Commission, Punjab (for short, ‘the District Commission’); further prayer is for considering the candidature of petitioner against the post in question.

3. Facts are not in dispute.

4. Government of Punjab, Department of Food, Civil Supplies & Consumer Affairs (for short, ‘the State Government), invited applications for filling up 32 (thirty-two) posts of Members in the District Consumer Commissions vide public notice dated 09.01.2021.

5. In response to the aforesaid advertisement, petitioner applied separately for the post(s) of Member, District Commissions, Barnala, Fatehgarh Sahib, SBS Nagar & Moga (P-2 to P-6).

6. The applications of petitioner were rejected vide impugned notice/announcement dated 28.06.2021 (P-7), and relevant part of the same reads as under:-

***“NOTICE/ANNOUNCEMENT
SELECTION FOR THE POST OF MEMBERS,
DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSIONS IN PUNJAB
APPLICANTS WHOSE APPLICATIONS HAVE BEEN
REJECTED DUE TO LACK OF DOCUMENTS*”**

<i>SR. NO.</i>	<i>Name of Candidate for the post of Member</i>	<i>Remarks</i>
<i>1- 8.</i>	<i>.....</i>	<i>.....</i>
<i>9.</i>	<i>Vijay Sharma D/o Gobind Ram</i>	<i>Punjabi Pass Certificate not attached.</i>
<i>10-47.</i>	<i>.....</i>	<i>.....</i>

48.	<i>Lt. Col. Jasbir Singh Bath s/o Sh. Tara Singh</i>	<i>Punjabi pass out certificate not attached. ACRs will be sent on shortlisting of the candidate from the prospective employer.</i>
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7. Consequent thereto, petitioner submitted a representation (P-11) requesting the quarter concerned to reconsider her application and relevant part of the same reads as under:-

“To

*The Additional Director,
Department of Food,
Civil Supplier & Consumer Affairs,
Chandigarh.*

***Sub:- Reconsider the name of the applicant for selection
for the post of member District Consumer Disputes
Redressal, Commission, Punjab.***

Respected Sir,

It is most respectfully submitted that it is come to the notice of the applicant that the name of the applicant has been rejected due to lack of document (Punjabi Pass Certificate are not attached) in serial no.9 Vijay Sharma D/o Gobind Ram. Whereas, the Punjabi subject is a compulsory subject in Punjab State and the applicant has passed the Punjabi subject in 10th Class (Matriculation), 10+2 (Senior Secondary) as well as in B.A. (Graduation). Scan Copy of the mark sheets are enclosed herewith.

It is therefore, prayed that the name of the applicant may kindly be reconsider for selection for the post of member District Consumer Disputes Redressal, Commission, Punjab.

Applicant

Vijay Sharma, Advocate,
D/o Gobind Ram R/o House
No.3515, St. No.13, New
Shivaji Nagar, Ludhiana.
Office Chamber No.4010,
4th Floor, New Lawyer's
Chamber Complex,
District Courts,
Ludhiana.

Dated:- Mb. No.94632-00180''

8. The Selection Committee after due consideration, rejected the aforesaid representation in its meeting held on 12.08.2021.

9. Hence, present writ petition.

10. Learned counsel for the petitioner in CWP-14933-2021 contended that in the State of Punjab, Punjabi is a compulsory subject upto 10th Standard. Petitioner passed her Matriculation & 10+2 with Punjabi as one of the subjects and therefore, her application was rejected in an arbitrary manner and she is eligible for selection to the post in question. Further contended that respondents sought hard copies of documents and certificates from some of the similarly situated candidates who had applied for the same post(s), but the representation made by petitioner was rejected during the pendency of present writ petition.

In addition to the above contentions, learned counsel for petitioner in CWP-16390-2021 contended that as regards

non-submission of ACRs is concerned, the Army Headquarter Authorities denied supplying ACRs directly to the applicant being confidential in nature, and therefore, the same will be provided on loan basis on demand/shortlisting of the officer. Further submitted that petitioner mentioned this fact in the application form and copy of letter by the Army Authority was already attached therewith.

11. On the other hand, learned State counsel submits that petitioner had uploaded only the matriculation certificate issued by the Punjab School Education Board without appending the detailed marks card to show that she has passed Matriculation with Punjabi as an elective or compulsory subject; thus, the application being incomplete, was rightly rejected. Even the representation made by the petitioner was duly considered by the Selection Committee in its meeting held on 12.08.2021, but the same was rejected.

12. Heard learned counsel for the parties and perused the records.

13. Before dealing with the contentions of the parties, it is pertinent to go through the advertisement, which is recapitulated as under:-

*“Department of Food, Civil Supplies and Consumer
Affairs, Punjab*

DETAILED NOTICE

*Applications are invited from suitable
candidates for appointment for Thirty-two posts of
Members in the District Consumer Commission in the
State of Punjab on whole time basis established under the*

Consumer Protection Act, 2019. The number of vacancies may increase or decrease for any reason whatsoever such as resignation or relieving of Members or as ordered by the Hon'ble Punjab and Haryana High Court in various pending Court Cases. Number of vacant posts of Members are as hereunder:-

<i>Sr. No.</i>	<i>Name of District Commission</i>	<i>Total No. of Vacant posts</i>
<i>1.</i>	<i>Amritsar</i>	<i>2</i>
<i>2.</i>	<i>Barnala</i>	<i>2</i>
<i>3.</i>	<i>Bathinda</i>	<i>2</i>
<i>4.</i>	<i>Ferozepur</i>	<i>2</i>
<i>5.</i>	<i>Fatehgarh Sahib</i>	<i>1</i>
<i>6.</i>	<i>Faridkot</i>	<i>1</i>
<i>7.</i>	<i>Gurdaspur</i>	<i>2</i>
<i>8.</i>	<i>Hoshiarpur</i>	<i>2</i>
<i>9.</i>	<i>Jalandhar</i>	<i>1</i>
<i>10.</i>	<i>Kapurthala</i>	<i>2</i>
<i>11.</i>	<i>Ludhiana</i>	<i>2</i>
<i>12.</i>	<i>Mansa</i>	<i>1</i>
<i>13.</i>	<i>Moga</i>	<i>2</i>
<i>14.</i>	<i>Muktsar Sahib</i>	<i>1</i>
<i>15.</i>	<i>Patiala</i>	<i>2</i>
<i>16.</i>	<i>Roopnagar</i>	<i>1</i>
<i>17.</i>	<i>Sangrur</i>	<i>1</i>
<i>18.</i>	<i>S.A.S. Nagar</i>	<i>2</i>
<i>19.</i>	<i>S.B.S. Nagar</i>	<i>2</i>
<i>20.</i>	<i>Tarantaran</i>	<i>1</i>
	<i>Total</i>	<i>32</i>

Eligibility Criteria

As per rule 4(2) of the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020 which are made under the provisions of the Consumer Protection Act 2019 describes as hereunder:-

4(2) "A person shall not be qualified for appointment as member unless

(a) is of not less than thirty-five years of age.

(b) possesses a bachelor's degree from a recognised University; and

(c) is a person of ability, integrity and standing, and having special knowledge and professional experience of not less than fifteen years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine."

Tenure

The appointment shall be on whole time basis for a period of 4 years or up to the age of 65 years, whichever is earlier.

Qualifications

1. The Applicant must have passed Matriculation with Punjabi as one of the compulsory or elective subject or any other equivalent examination in Punjabi language.

2.1 In case of serving officials:-

(i) Applicant must have obtained 'No Objection Certificate' (NOC) from his employer.

(ii) In case any departmental or any other proceedings including criminal case has been initiated, pending or decided in the past against the officer under relevant Service Rules, details of the same may be furnished.

2.2 In case of retired officers, the date of superannuation and "No Inquiry Certificate" will be necessary from the last employer.

2.3 ACR dossiers with ACRs of last 10 years of applicant.

2.4 Candidates having judicial background are required to furnish copies of their ten best judgments/other judicial orders passed by them along with their application form.

3. Selection of the Members of the District Consumer Commission will be made by the Selection Committee prescribed in the Rule 6 of the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020 which are made under the provisions of the Consumer Protection Act 2019.

4. Every appointment of a Member shall be subject to submission of a certificate of physical fitness signed by a civil surgeon or District Medical Officer to his medical fitness.

5. Before appointment, the selected candidate shall have to furnish an undertaking that he does not and will not have any such financial or other

interest as is likely to affect prejudicially his functions as such Member.

Oaths of office and secrecy:- Every person appointed to be a Member, before entering upon his office make and subscribe an oath of office and secrecy in Forms I and II annexed.

Declaration of Financial and other interest:- A Member, before entering upon his office, declare his assets, and his liabilities and other interests.

Disqualifications:-

A person shall be disqualified for appointment as a member, if he:-

- (a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or*
- (b) has been adjudged as an insolvent; or*
- (c) is of unsound mind and stands so declared by a competent court; or*
- (d) has been removed or dismissed from the service of the State Government or Central Government or A body Corporate owned or controlled by such Government; or*
- (e) has, in the opinion of the State Government, such financial or other interest as is likely to prejudicially affect his functions as the Member.*

The selection of member or the president shall be regulated as per the provision of Rule 4(3) of Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020. Meaning thereby that selection of woman member or women president shall be dependent on the constitution of the District Commission.

All other terms and conditions of the appointment of the Member shall be governed by the Consumer Protection Act, 2019 as well as the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020 available at website www.foodsuppb.gov.in

It is made clear only applications filled online at link available at www.foodsuppb.gov.in till the cut off date i.e 10/02/2021 till 5:00 PM and complete in all aspects with application fee of Rupees 1000/- (Rupees One Thousand Only) paid online and with requisite documents attached shall be considered. Any application found incomplete in any manner, would be rejected in scrutiny and no intimation regarding the same shall be sent to applicant.

*Principal Secretary to Govt of Punjab
Department of Food, Civil Supplies &
Consumer Affair”*

A perusal of the above extract of the advertisement reveals that under the heading of **Qualification**, it has been specifically provided that “*The Applicant must have passed Matriculation with Punjabi as one of the compulsory or elective subject or any other equivalent examination in Punjabi language.*” It has also been mentioned in the advertisement that “*Any application found incomplete in any manner, would be rejected in scrutiny and no intimation regarding the same shall be sent to applicant.*” Still further, Note (i) of the format for application says that “*Attested copies of the relevant*

documents in support of proof of age, academic qualification, experience, income etc. be attached.”

14. It is matter of record that representation submitted by the petitioner was duly considered by the Selection Committee in its meeting held on 12.08.2021, but the same was rejected while recording reasons to the following effect:-

*“MINUTES OF THE MEETING OF THE SELECTION
COMMITTEE FOR SELECTION OF MEMBER OF THE
STATE COMMISSION AND PRESIDENT/MEMBER OF
DISTRICT COMMISSIONS IN THE STATE OF PUNJAB,
HELD ON 12.08.2021 AT 1:15 PM.*

*Present: Hon’ble Mr. Justice Rajan Gupta, Chairman.
Sh. Rahul Tiwari, IAS, Secretary, Food, Civil
Supplies and Consumer Affairs, Member.
Smt. Jaspreet Talwar, IAS, Principal
Secretary, Water Supply and Sanitation,
Member.*

*In Re: Consideration for fixing the date and time of
interview for the post of Member of the
District Commissions in the State of Punjab.*

*Matter considered at length.
Representations filed by Ms. Mini Roojam, Lt.
Col. Jasbir Singh Bath, Ms. Vijay Sharma, Sh.
Yogesh Sharma, Ms. Manjit Kaur, Sh. Sucha
Singh and Sh. Ramesh Kumar perused. They
have claimed that they had uploaded the
Matriculation Certificate issued by Punjab
School Education Board which automatically
entails that they have passed Punjabi as*

compulsory language. However, perusal of their application forms reveals that they have not filed copy of Detailed Marks Card of Matriculation showing that they have passed Matriculation with Punjabi as one of the compulsory or elective subject. Their applications, being incomplete, were rejected in the meeting of this Committee held on 16.06.2021. Thus, the representations are devoid of merit and the same are rejected.

.....

Sd/ Sd/- Sd/-
Member Member Chairman”

15. The ground taken by petitioner in the present petition is that she had uploaded the Matriculation certificate issued by Punjab School Education Board; thus, the same *ipso facto* proves that she had passed Punjabi as compulsory language. As per record, petitioner did not append the detailed marks card reflecting the subjects to show that she passed Matriculation examination with Punjabi as one of the compulsory or elective subjects; rather, she simply appended the matriculation certificate which does not contain any details of the subjects. Therefore, the petitioner has miserably failed to substantiate that she attached the ‘relevant documents’ in terms of the advertisement and as such, her application being incomplete, was rightly rejected.

16. Furthermore, mere assertion that similarly situated candidates were granted the relief sought in the present petition by allowing them to submit hard copies of the documents/certificates does not hold any ground in the absence of any supporting material to that

effect inasmuch as not even a single candidate has been named by the petitioner in her petition or during proceedings of the case to show that he/she was granted the benefit as claimed by petitioner. Moreover, petitioner has neither pleaded nor proved any *mala fide* against any of the respondents.

17. Since petitioner in CWP-16390-2021-Jasbir Singh Bath failed to prove that he had passed Matriculation with Punjabi as one of the compulsory or elective subjects and on that account, his application being incomplete, was rightly rejected; thus, the adjudication of the contention regarding the point of ACRs has become inconsequential.

18. In view of the above discussion, this Court is of the considered opinion that present writ petitions are bereft of any merit and the same are liable to be dismissed.

19. Ordered accordingly.

15.09.2022
atulsethi

(MAHABIR SINGH SINDHU)
JUDGE

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