

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(316)

CWP No. 22200 of 2021

Date of Decision : 17.10.2022

Monika

...Petitioner

Versus

Haryana Staff Selection Commission

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashish Naik, Advocate for the petitioner.

Mr. R.S. Budhwar, Addl. A.G., Haryana.

Harsimran Singh Sethi J. (Oral)

In the present petition, the prayer of the petitioner is for issuance of direction to the respondents to appoint her to the post of TGT(Science) keeping in view the vacancies, which were advertised vide Advertisement No. 28.06.2015 (Annexure P-1).

Learned counsel for the petitioner argues that though, the petitioner was fully eligible for the said post as per the advertisement but her candidature has not been considered by the respondents against the post of TGT (Science) hence, the respondents are liable to be directed to grant the petitioner the benefit of selection and consequent appointment keeping in view the marks secured by the petitioner in the written examination.

Learned counsel for the respondents submits that in the present case, the petitioner was not eligible to be considered for appointment for the

last date hence, petitioner was not even eligible to compete for appointment. Learned counsel for the respondents further submits that even otherwise, the OMR sheet of the petitioner was smudged and keeping in view the decision of the Co-ordinate Bench of this Court in CWP No. 22918 of 2013 titled as **Anshu and others Vs. State of Haryana and another**, decided on 21.12.2016, the petitioner was declared ineligible to compete for the examination.

Learned counsel for the petitioner rebuts the argument raised on behalf of the respondents by placing reliance upon the judgment in Civil Appeal Nos. 5065-5095 of 2021 titled as **Haryana Staff Selection Commission Vs. Priyanka and others**, decided on 01.09.2021, to contend that wherever the confidential result of a candidate was sent to the Recruiting Agency, he/she is to be considered eligible and in the present case, the petitioner's provisional result was sent by the University concerned to the respondent-Commission and, therefore, the petitioner was eligible. Learned counsel for the petitioner does not dispute the fact that there is a smudging in the OMR sheet of the petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

With regard to the first contention being raised by learned counsel for the petitioner that the claim of the petitioner is considered by the judgment of the Hon'ble Supreme Court of India in **Haryana Staff Selection Commission's case (supra)**, the said argument cannot be accepted in view of the order passed by the Hon'ble Supreme Court of India in MA Nos. 539-569 of 2022 in the said Civil Appeals, decided on

01.09.2021 can only be given to the candidate, who had already approached the competent Court of Law by the said date and anybody, who files the petition after the said date, will not be given the benefit of the said judgment. Learned counsel for the petitioner has not been able to rebut the said contention.

With regard to the allegation that the OMR sheet of the petitioner has been smudged, the said OMR sheet has been produced in Court today and the same has also been shown to learned counsel for the petitioner. Question No. 51 has been smudged. As per the terms and conditions of the advertisement, any candidate, who smudged the OMR sheet is to be declared ineligible. The said terms and conditions of the recruiting agency has already been upheld by the judgment of the Co-ordinate Bench of this Court in *Anshu and others' case (supra)*. Learned counsel for the petitioner has not been able to rebut the said contention that keeping in view the terms and conditions of the advertisement coupled with the settled principle of law by the Division Bench, the petitioner cannot claim further consideration in respect of selection and consequent appointment to the post of TGT (Science).

Keeping in view the above, no ground is made out for any interference by this Court.

Dismissed.

October 17, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No