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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-615-2019 (O&M)

Date of decision: August 29, 2022

Mukesh

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON’BLE MR. JUSTICE ARUN MONGA

Present: Ms. Abha Rathore, Advocate for the petitioner.

Mr. R.K.S. Brar, Additional AG Haryana.

None for respondent No.3.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of Certiorari for setting aside the criterion applied for the selection of Mali and to set aside the appointment of respondent No.3.

2. Having remained unsuccessful, petitioner is before this Court assailing the appointment of respondent No.3 as a Gardner pursuant to advertisement dated 29.03.2018 (Annexure P-1). The eligibility condition in the said advertisement is as below:-

Name of post	Number of posts	Qualifications	Category	Age on 1.1.2018 in years
XX	XX	XX	XX	XX
Mali	1	8th pass	BC	18-45
XX	XX	XX	XX	XX

3. As against the above eligibility condition, petitioner submitted that he is though matriculate, but respondent No.3 being 10+2 has been given

preference over him, and therefore, the same be set aside being in violation of requirement of advertisement and Haryana State Secondary Education Field Offices (Group D) Service Rules, 1998. Relevant of the Rules *ibid* reads as below:-

“7. Qualification. – No person shall be appointed to any post in the Service, unless he is in possession of qualification and experience specified in column 3 of **Appendix B** to these rules in the case of direct recruitment and those specified in column 4 of the aforesaid Appendix in the case of persons appointed other than by direct recruitment.

XX XX XX

APPENDIX – B
(See rule 9)

Sr. No.	Designation of posts	Academic qualifications and experience, if any, for direct recruitment	Academic qualifications and experience, if any, for appointment other than by direct recruitment.
XX	XX	XX	XX
6.	Mali	Should be able to read and write Hindi	Should be able to read and write Hindi.”

4. Perusal of the advertisement read with aforesaid Rules clearly reflects that the same are to determine the eligibility of the candidate. In the instant case, it is not that the petitioner has been meted out with hostile discrimination inasmuch as his candidature was not rejected on the ground of his not being 10+2 and/ or not having knowledge of Hindi. All the eligible applicants were allowed to participate and it is only thereafter, as per the objective criteria adopted by the selection committee, short-listing of the candidates was done on the basis of marks awarded to them as per the academic performance. While doing so, merely preference was given to those candidates who were either senior in age or had better knowledge of computer in addition to the knowledge of Hindi as envisaged in the Rules *ibid*.

5. I do not find anything wrong with the aforesaid criteria as in today's age, it is expected of every employee to have computer knowledge even if one is merely a matriculate as the soft skills are required almost in every stream, including that of the Gardner to perform his duties as per the latest developments and techniques which the Gardner is required know. That apart, the criteria adopted does not, in any manner, amount to any hostile discrimination as across board rest of the candidates, who were also rejected on the basis thereof and are not before the Court, the petitioner cannot be allowed to steal march over them, even in case the argument of learned counsel for the petitioner as canvassed that this criteria was not adopted, is accepted. Claim of the petitioner that he ought to have been also given preference for his having additional qualification of Gardner. His certificate in Horticulture could not be verified, and rightly so since the petitioner himself was at fault for not having appended his requisite certificate at the time of selection. It is only after he was unsuccessful that for the first time he approached the respondents with the requisite proof of having got certificate in Horticulture and no fault, therefore, can be found with the selection which had attained finality as the successful candidates had already joined.

6. No grounds for interference are made out.

7. Dismissed.

(ARUN MONGA)
JUDGE

August 29, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No