

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 2316 of 2023

Date of Decision: 15.03.2023

Shaveena

... Petitioner(s)

Versus

The State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Anmol Dutt Sharma, Advocate
for the petitioner(s).

Mr. D.K.Singal, Additional Advocate General,
Punjab, for the respondent No.1 and 2.

Ms. Monica Chhibber Sharma, Advocate
for the respondent NO.3.

Mr. Arun K. Bakshi, Advocate
for the respondent No.4.

Anil Kshetarpal, J.

1. The candidature of the petitioner has been rejected as she has been found lacking in possessing the requisite qualification for the post of Master. As per the recruitment notice, a candidate can be considered for selection to the post in the Master Cadre (Border Area) in the State Education Department is required to possess the following qualifications:-

“(i) *Should have passed B.Sc. With 45% marks in the case of General Category candidates and 40% marks in the case of Scheduled Castes, Scheduled Tribes, Other Backward Classes, Backward Classes and Physical Handicapped Candidates from a recognized university or institution*

with any of the two subjects i.e. Physics, Chemistry and Mathematics or should have passed B.Sc. in Physics and Mathematics or any other equivalent qualification, but certificate of equivalency should be given by the concerned University as per guidelines of the University Grants Commission; and

(ii) Should have passed B.Ed. from a recognized university or institution with Science as one of the teaching subject as per guidelines of the University Grants Commission.”

2. The petitioner holds a B.Tech (Electronics and Communication) degree. As per the recruitment notice, the candidate is required to pass B.Sc. with 45% marks or any other equivalent qualification. While replying to the writ petition, the respondents have disclosed that on comparison of course content of B.Sc. (Non-Medical) and B.Tech (Electronics and Communication), it has been found that she does not possess the relevant basic qualification and there is no material produced on record that elucidates that B.Tech Degree in Electronics and Communication is equivalent to B.Sc. (Non-Medical).

3. The learned counsel representing the petitioner contends that the matter should be referred to the Expert Committee to assess the equivalency/similarity between the aforesaid two qualifications. He relies upon the judgment passed by the Supreme Court in ***Manish Sharma v. Director, Department of Medical Education and Research (2017)4 SCC 577.***

4. This Court has considered the submissions of the learned

counsel representing the petitioner. The relevant notice has been issued by

the Director, Education Recruitment Directorate, Punjab. The recruitment is for employment in the Punjab Education Department. Ultimately, the State Government will be the employer. It is the employer who is best judge of the requisites for appointment to the various posts. In these circumstances, it would be appropriate to refer the matter to the Subject Matter Experts. As far as the judgment in *Manish Sharma’s case (supra)*, the Supreme Court has only directed the competent authority to take a decision in terms of the rules applicable to the said post in question. Hence, the aforesaid judgment does not help the petitioner as the facts are not similar to the present case.

5. The scope of judicial review in the matter of equivalence or similarity of qualification is limited. This Court cannot sit in appeal over the opinion formed by the proposed employer in consonance with the Subject Matter Experts.

6. Keeping in view the aforesaid facts and discussion, no ground is made out to issue a writ. Hence, the present writ petition is dismissed.

(Anil Kshetarpal)
Judge

March 15, 2023
“DK”

Whether speaking/reasoned :Yes/No
Whether reportable : Yes/No