

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

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**CWP-5436-2022 (O&M)
Date of decision: 31.01.2023**

Narender Kumar

...Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. R.N. Lohan, Advocate for the petitioner.

Mr. Rajesh Gaur, Addl. AG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The petitioner seeks issuance of a writ in the nature of certiorari quashing the order dated 08.11.2021 (Annexure P-13) passed by respondent No.1 and further a writ in the nature of mandamus directing the respondents to appoint the petitioner to the post of Post Graduate Teacher (PGT) Biology with all the consequential benefits from the date the candidates lower in merit, were appointed.

Short reply filed on behalf of respondent Nos. 1 and 2 is already on record.

Learned counsel for the petitioner submits that the petitioner has passed the Bachelor of Science in the subject of Botany and Zoology and M.Sc. in the subject of Coastal Aquaculture and Marine Bio Technology (Life Sciences) and Bachelor of Education, which are essential qualifications

for the post of PGT Biology; that in terms of the advertisement No. 04/2015 issued by the Haryana Staff Selection Commission, the petitioner had applied for the post of PGT Biology; that the petitioner appeared and had qualified the written examination and thereafter, had been called for interview vide letter dated 21.09.2018. It is further submitted that after selection, the petitioner was recommended for appointment to the post of PGT Biology by the Commissioner, that the candidates lower in merit than the petitioner, were given appointment letters, but the petitioner has been denied the same and that upon an inquiry from the office of respondent No.2, the petitioner came to know that the appointment has been denied to him for his not possessing the degree of M.Sc. in the requisite subject.

Learned counsel for the petitioner further submits that the M.Sc. degree possessed by the petitioner is in the Life Sciences and that similar controversy was dealt with by a Division Bench of this Court in LPA No. 1014 of 2015 titled as 'Manju Rani Vs. State of Haryana and ors', decided on 09.03.2017. It is yet further submitted that the appellant in the aforesaid LPA had passed her M.Sc. Degree from the Department of Zoology & Aquaculture with specialisation in Fisheries from Chaudhary Charan Singh Haryana Agricultural University, Hisar; that she had applied for the post of PGT (Biology) in terms of advertisement issued by the Haryana School Teachers Selection Board and that on the directions of this Court, a Committee of Experts was constituted and it was opined by the Committee that M.Sc. (Fisheries) be considered under 'Life Sciences Discipline' for the post of PGT (Biology).

Learned counsel for the petitioner also relies upon the decision dated 04.12.2012 in CWP No. 13125 of 2012, titled as 'Babli Vs. State of Haryana and others' as well as decision dated 11.12.2012 in CWP No. 21488 of 2012 titled as 'Ravi Kumar Vs. State of Haryana and others', to submit that the petitioner's degree in M.Sc., in Coastal Aquaculture and Marine Bio Technology (Life Science), is equivalent to M.Sc., Zoology (Life Science) and therefore, the reliance by the competent authority on the opinion rendered by Kurukshetra University, is not tenable.

Learned counsel for the petitioner also draws the attention of this Court towards communication dated 23.05.2020 issued by the Deputy Registrar (Academic), Andhra University, specifically stipulating that M.Sc. Coastal Aquaculture and Marine Bio-Technology, awarded by Andhra University, Visakhapatnam, is equivalent to M.Sc. Life Science and eligible to teach Biology in respect of the petitioner.

Learned State counsel points out that as per the short reply filed on behalf of respondent Nos. 1 and 2, the issue regarding non-equivalence of Degree pertaining to the petitioner was referred to the Kurukshetra University, Kurukshetra for clarification; that the said University had constituted an Experts' Committee and the Committee had opined that the M.Sc. (Coastal Aquaculture & Marine Biotechnology) cannot be considered equivalent to M.Sc. Zoology/Botany in the faculty of Life Science. He relies upon the judgment rendered by the Hon'ble the Supreme Court in Madras Institute of Development Studies and another Vs. Dr. K. Sivasubramaniyan and others, 2015 AIR SC3643.

I have heard the learned counsel for the parties and have also gone through the case file.

A perusal of the letter dated 08.09.2021 (Annexure R-1) issued by the Deputy Registrar (Estt.-1), Kurukshetra University, Kurukshetra, would reveal that upon having received the letter dated 03.08.2021, the Director General, Secondary Education, Haryana, had constituted a Committee and the Committee had opined that the M.Sc. (Coastal Aquaculture & Marine Biotechnology) cannot be considered equivalent to M.Sc. Zoology/Botany in the faculty of Life Science.

It is settled law that when the experts in the education Department have held that a diploma or degree is not equivalent to the another given qualification, the Court should not interfere with the findings so recorded by such experts and that the judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification.

In Devender Bhaskar & Ors. v. State of Haryana & Ors., 2022(2) PLR 644, the Hon'ble Supreme Court, while adjudicating upon the issue of equivalence of qualifications, has held as under:-

“20. We have already noticed that one of the eligibility criteria for appointment to the post of Arts and Crafts teacher as per the advertisement dated 20.07.2006 is a “two-year Diploma in Art and Craft examination conducted by the Haryana Industrial Training Department or an equivalent qualification recognized by the Haryana Education Department.” It was made clear by the Industrial Training and Vocational Educational Department, Haryana, that diploma in Art and Craft Course by the Kurukshetra University is conducted through distance education and that this course cannot be equated with two-year diploma in Art and Craft Course awarded by

the Haryana Industrial Training Department. Recognition of the said Course by the State of Haryana, as held by the High Court, is entirely different from its equivalence. When the experts in the Education Department have held the diploma in Art and Craft by the Kurukshetra University is not equivalent to the two-year diploma in Art and Craft awarded by the Haryana Industrial Training Department, we are of the view that the High Court was not justified in equalizing them.

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25. In Zahoor Ahmad Rather & Ors. v. Sheikh Imtiyaz Ahmad & Ors., (2019)2 SCC 404, it was held that the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc. Judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Equivalence of qualification is a matter for the State, as recruiting authority, to determine.”

The controversy involved in the present case is squarely covered by the aforesaid judgment of the Hon'ble Apex Court. Once, the Committee of Experts has examined the issue of equivalence of the given qualifications and opined accordingly, the same cannot be interfered with in the writ jurisdiction.

In view of the above, the present petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

31.01.2023

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No