

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 14634 of 2012(O&M)
Date of decision: 26.04.2023

Jyotsna Bhaskar

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vineet Sehgal, Advocate
for the petitioner.

Mr. R.K.Kapoor, Addl.A.G., Punjab

Ms. Harmanpreet Kaur, Advocate
for respondent no.4 and 10 to 14.

Mr. Dhirinder Chopra, Advocate
for respondent no.6.

Ms. Snigdha Sood, Advocate
for respondent no.15.

ANIL KSHETARPAL, J(Oral)

1. The petitioner prays for the issuance of a writ in the nature of certiorari to quash the appointment of respondent no.15 as a Vocational Mistress (Garment Making) recruited pursuant to the recruitment notice dated 23.09.2009 in the Punjab Education Department. The crux of the dispute is whether the petitioner's experience certificates should have been considered during the recruitment process, despite not being signed by the designated Labour Inspector of the concerned area or countersigned by the District Level Officer of the concerned department.

2. In order to comprehend the controversy involved in the present

case, some relevant facts, in brief, are required to be noticed:

On 23.09.2009, a recruitment notice was issued inviting applications for recruitment to the various posts including the post of Vocational Master/Mistresses(Garment Making). During the course of arguments, the learned counsel representing the State of Punjab produced a translated copy of the recruitment notice, the correctness whereof is not disputed. For the purpose of decision of the present case, a special note from the recruitment notice as well as the selection procedure being relevant are extracted as under:-

“Note: *The experience mentioned in the aforesaid qualification is part of the prescribed qualification. Therefore, no additional marks shall be given for experience, nor it shall be treated as higher qualification. The experience certificate should be signed by the designated Labour Inspector of the concerned area or should be countersigned under the signature of the District Level Officer of concerned department.*

Selection Procedure:

The recruitment in the concerned category will be made only on the basis of merit by calculating the percentage of marks obtained in the prescribed basis and professional qualification and the higher qualification and experience counter-signed by concerned District Education Officer (S.E.) or by competent authority, if admissible. The criteria for calculating the merit would be as under:-

1(A) Max, Markas as per the percentage of educational and professional qualification: 80

(B) For Non teaching (Sr. Laboratory Attendant and Library Restore) Cadre max, marks as per the percentage of total marks: 80”

3. The candidature of the petitioner has been rejected by the official respondents on the ground that the experience certificates submitted by the petitioners were neither signed by the designated Labour Inspector of the concerned area nor countersigned under the signatures of the District Level Officer of the concerned department.

4. The petitioner claims to have attained sufficient experience while working at the National Institute of Fashion & Design (NIFD), Pathankot and Smt. Rama Chopra Sanatan Dharam Kanya Mahavidyalaya, Pathankot. She claims that neither the Selection Committee objected to the admissibility of the experience certificates submitted by the petitioner nor the Chairman of the Selection Committee found the certificates wrong in recognizing the experience. Hence, it is claimed that the petitioner has been wrongly deprived of the appointment.

5. On the other hand, the State while contesting the petition has submitted that as per the note appended to the recruitment notice, before the experience certificate is taken into consideration, it needs to be signed by the designated Labour Inspector of the concerned area which should be countersigned under the signature of District Level Officer of the concerned department in order to make the said certificate authentic.

6. With regards to the experience certificates submitted by the petitioner, these were signed by the Principal and attested by a gazetted officer. There is a procedure prescribed for claiming marks on the basis of the experience in the recruitment notice and the same is required to be followed. The petitioner is stated to have served in the private institutions.

These experience certificates issued by the aforesaid private institutions are

neither signed by the designated Labour Inspector of the concerned area nor countersigned under the signatures of the District Level Officer of the concerned department. In such a situation, the Selection Committee has not committed any error in refusing to take into account the marks claimed by the petitioner on the basis of experience.

7. The learned counsel representing the petitioner while drawing the attention of the Court to the judgment passed in **Gurpreet Kaur vs. State of Punjab and others** (Civil Writ Petition No.4037 of 2014, decided on 01.05.2017), submits that the requirement of counter signatures from the District Education Officer is not necessary once the experience certificates have been authenticated by the head of the Institutions which was thereafter attested by a Gazetted Officer.

8. This Court has carefully read the judgment passed in **Gurpreet Kaur's case (supra)**. In that case, the petitioner claims to have worked at "Sandhu Tailor, Amritsar". The experience certificate was signed by the Labour Inspector. In that context, it was held that the petitioner in that case is entitled to get marks on the basis of the experience certificate produced as it was attested by the concerned authority. Hence, the aforesaid judgment is not applicable to the facts of the present case.

9. On the careful reading of the note, it becomes evident that before the experience certificate submitted by the candidate is taken into account its genuineness must be considered. Such provision has been made in order to take into account only the genuine experience certificates. It is permissible for the recruiting agency or the employer to make provisions to ensure that the documents submitted by the candidates are genuine and not

fake.

10. As far as the arguments of the learned counsel representing the petitioner that the Scrutiny Committee or the Chairman of the Selection Committee never objected the petitioner's case for appointment, it shall be considered that if the Scrutiny Committee overlooked a crucial/mandatory requirement in the recruitment notice, the appointing authority is well within its jurisdiction to object to the admissibility of the documents before issuing the appointment letter.

11. In exercise of the jurisdiction of judicial review, the Constitutional Court is not expected to interfere unless the conditions stipulated in the recruitment notice is unreasonable or arbitrary.

12. Keeping in view the aforesaid facts and discussion, finding no merit, the writ petition is dismissed.

13. All the pending miscellaneous applications, if any, are also disposed of.

April 26, 2023
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(ANIL KSHETARPAL)
JUDGE

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