

2023:PHHC:131492
CWP-11486-2016 (O&M)
Date of Decision: 10.10.2023

Jugraj Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. R.K. Arora, Advocate and
 Ms. Saguna Arora, Advocate and
 Mr. Jugam Arora, Advocate for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner has participated in the selection process initiated vide advertisement dated 20.11.2015, for filling up 90 vacant posts of Lecturer (History).

2. The petitioner applied under the sports general category and in the merit list prepared, the petitioner was placed at Sr. No.2, in the general sports quota, with total merit list of 191, while the candidate at Sr. No.1- Lakhvir Kaur, had total merit of 193 and had been offered appointment, but she did not join, whereafter, the post was to be offered to the petitioner but the same was not offered and, therefore, he has preferred this writ petition praying for consideration of his case for appointment on the post of Lecturer (History), under advertisement dated 20.11.2015.

3. The respondents filed their reply and have stated that only one post was reserved for sports general category and the post of Lecturer (History) falls in Class-2 post. As per the State Recruitment of Sportsmen

Rules, 1988 (hereinafter referred to as 'Rules 1988'), a person can be appointed against a Class-2 post, provided he possesses a sports certificate of Category 'B' gradation while the petitioner possessed Category 'C' gradation certificate and, therefore, could not have been appointed in the sports general quota for the post of Lecturer (History).

4. Learned counsel for the petitioner has taken this Court to the rejoinder and submits that so far as the petitioner is concerned, he had applied for the post in the year 2015. The post of Lecturer in terms of Punjab State Education Class-III (School Cadre) Service Rules, 1978 (hereinafter referred to as 'Rules 1978'), is a Class-III post. The post is mentioned in Appendix 'A' as well as Appendix 'B' of the Rules 1978 and, therefore, the contention of the respondents that the post of Lecturer is a Class-II post is wholly misleading. Learned counsel further submits that the post of Lecturer (School Cadre), was included in the Group-B Service by the incorporation of the Punjab Educational Service (School and Inspection) Group 'B' Rules, 2018 (hereinafter referred to as 'Rules 2018'), which came into force w.e.f. the date of official gazette i.e. 17.08.2018. Learned counsel further submits that in the year 2015, the post being in the Group-C category, the petitioner was entitled for appointment. Learned counsel further submits that the respondents have placed on record letter issued by the Superintendent, Education Department, Punjab, which mentions of the letter of the Personnel Department dated 29.09.2014, granting pay scale to the Lecturer Cadre of Rs.10300-34800+4200 grade pay, which is a Group-B post salary but granting of salary and pay scales to Group-B category, would not *ipso-facto* shift the post from Group-C to Group-B. Learned counsel further states that once the pay scale has been awarded to the Lecturer cadre equal to Group-B

post, the post shall be meant for all purposes to be a Group-B post and, therefore, the qualifications for appointment under the sports quota as governed by the Rules 1988, shall apply and a person who possesses a certificate of Category 'B' alone, can be considered for appointment under the sports quota.

5. I have considered the submission.

6. As per the 1978 Rules, method of appointment for the post of Lecturer was laid while cadre strength, qualification and method of recruitment have been laid down in the Appendix 'A' and 'B' to the said Rules 1978. The post of Lecturer falls in the said Appendix and, therefore, the post would be treated as Class-C (school cadre post). The new rules which incorporated the post of Lecturer in Group-B came into force on 17.08.2018. Thus, on the date when the advertisement was issued, the post was to be filled as required under the Rules of 1978. Granting a pay scale to a particular post is governed by a separate pay scale rules. The Pay Commission may allot a higher pay scale to a particular post which may be falling in a lower category or a higher category as the case may be. However, no rights are created by granting of pay scales to a particular post unless the same categorized by incorporation in the service rules. The post shall continue to remain of the category to which the services rules apply.

7. Since the Rules 1978, remain applicable to the post, the post would remain a Class-III post. As per the Rules 1988, the candidate who applies for a Class-III post has to possess a Grade-C certificate. This Court finds that the petitioner was eligible and his name was included in the list for general sports category and was placed at Sr. No.2 with overall merit of 191.

Thus, he was next meritorious to the candidate who had refused to join and, therefore, was entitled to offer the said post.

8. Accordingly, the writ petition is allowed. The petitioner shall be offered the post and if he is otherwise found to be fully suitable, the petitioner shall be considered for appointment on the said post. The exercise shall be conducted within a period of one month from today. The petitioner would be entitled to the benefits from the date of appointment alone. It is also made clear that if any other person has been appointed under the said advertisement, the petitioner would also be treated to be appointed under the said advertisement and would also be entitled to notional benefits.

9. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

10.10.2023.
rajesh

1. Whether speaking/reasoned?

:

Yes/No
2. Whether reportable?

:

Yes/No