

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

237

**CWP-16809-2019 (O&M)
Date of Decision: 19.01.2023**

SHVETA

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sunil K. Nehra, Advocate
for the petitioner.

Mr. Rohit Arya, DAG Haryana.

Mr. Harmanjot Singh Gill, Advocate
for respondent No.4.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for issuance of writ in the nature of Mandamus directing the respondents to treat the petitioner eligible for the post of Assistant Professor in Pathology Department advertised by the Department concerned vide advertisement No.2/2019.

As per the aforesaid advertisement, the requisite qualifications for the post of Assistant Professor, are as under:-

'Academic qualification and experience:

1. *A basic University qualification included in the schedule to Indian Medical Council Act, 1956 (102 of 1956)*
2. *M.D./M.S. Or equivalent Qualification recognized by Medical Council of India in the subject concerned.*

Experience:

Three years teaching experience in the speciality concerned in a Recognized medical college as Resident/Registrar/Demonstrator/Tutor, out of which one year should be after Post-Graduate qualification'.

Learned counsel for the petitioner would vehemently submit that having worked as a Demonstrator from 11.12.2012 till 10.12.2015 in Kalpana Chawla Government Medical College, Karnal, the petitioner had submitted her application for the post of Assistant Professor and that, when the petitioner did not receive any call for interview, upon an inquiry, she was told that her working experience as Demonstrator, in the aforesaid College, could not be considered towards teaching experience. It is the further contention of the learned counsel for the petitioner that while performing her duties, the petitioner was doing demonstration of Pathology Subject to the MBBS students and therefore, she could not be denied the teaching experience certificate.

It is further submitted that in a similar petition i.e. CWP-23049-2013, the experience of Doctor Sangeeta Bhattacharaya, who was working as an Assistant Professor, was ordered to be counted towards teaching experience, vide order dated 04.05.2016 passed by a Coordinate Bench of this Court and she had participated in the selection process and was successful in the same.

In support of his contentions, learned counsel for the petitioner relies upon the judgments dated 25.09.2018 passed by a Coordinate Bench of this Court in CWP-11432-2016 titled as Vipin

Goyal vs State of Haryana and others and dated 22.01.2020 passed in CWP-14808-2017 titled as Kiran Sharma and State of Haryana and others. Further reliance has been placed upon the Minutes of Meeting dated 08.09.2000 issued by Medical Council of India, Executive Committee, which read as under:-

'The Executive Committee considered the letter dated 13.07.2000 received from the DME, Government of Himachal Pradesh along with the decision taken by the TEQ, Sub-Committee of this Council at its meeting held on 04.11.1999 and decided to recommend that the teaching experience acquired by the teachers of the medical colleges, which are not recognized but permitted under Section 10-A of the IMC, Act, 1956, be counted from the date of their joining the Institution provided they are appointed as per MCI Norms'.

Further reliance has been placed on the judgment passed by the Hon'ble Apex Court in Orissa Lift Irrigation Corp. Ltd. Vs Rabi Sankar Patro and ors, 2017 (4) SCT 683.

The learned State counsel could not counter the fact that the Assistant Professors, Associate Professors and Professors in the Government Medical Colleges, who do not actually teach, but are assigned administrative duties, are given Teaching Experience Certificate. If that be so, then it does not appeal to the common prudence as to why and how, the petitioner, who was working as a Demonstrator, could be denied such experience, though she was a Demonstrator in the subject of Pathology to the MBBS students.

Learned counsel for respondent No.4 submits that respondent No.4-Pandit Bhagwat Dayal Sharma, University of Health Sciences, Rohtak, has no objection if the claim of the petitioner is accepted, as prayed for in this petition.

Demonstrators are the back-bone of education system and whatever is taught in theory is under the watchful eyes of the Demonstrators. Imparting of knowledge in theory classes, is reinforced at the time of demonstrating and it constitutes an integral part of the education system.

Having considered the rival contentions, this Court is of the considered view that the denial of the teaching experience to the petitioner is unjustified and the petitioner cannot be discriminated as against those similarly situated, who though are discharging the administrative duties, but are given such benefit.

In view of the above and taking into consideration the case law referred to above, the present writ petition is allowed. The respondents are directed to consider the experience of the petitioner as a Demonstrator w.e.f. 11.12.2012 to 10.12.2015, as teaching experience and thereafter, declare her result, as per Rules.

19.01.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>