

2023:PHHC:051661

221 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-18322-2016 (O&M)

Date of decision: 12.04.2023

Neelam Kumari

....Petitioner

Versus

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL**

Present:- Mr. Puneet Gupta, Advocate for the petitioner

Mr. R.K. Kapoor, Addl. AG, Punjab

Mr. Surmukh Singh, Advocate for respondent no.3

**ANIL KSHETARPAL, J (Oral)**

1. The petitioner prays for the issuance of an appropriate direction or order in the nature of Mandamus directing the respondents to appoint her as an Art & Craft Teacher, after granting the benefit of 5% additional marks, for having attained her Graduation degree. Before proceeding further, it would be appropriate to notice the relevant facts, in brief:-

2. Pursuant to the recruitment notice issued on 15.10.2014, inviting applications for the various posts in different subjects including 100 posts of Art & Craft Teachers, the petitioner also applied. As per the recruitment notice, the basic qualification required for an Art & Craft Teacher is as under:-

***“BASIC QUALIFICATION:***

*10<sup>th</sup> class exam must be passed and two years Diploma in Art and Craft must be obtained from*

*the Institute recognized by the Punjab Government, Technical Education Department.”*

3. The selection is to be made purely on the basis of the merit list prepared on the basis of marks obtained by the candidates during the course of their study. As per the recruitment notice, the marks were required to be calculated in the following manner:-

**“MODE OF SELECTION:**

|                                                  |          |
|--------------------------------------------------|----------|
| 7. Basic qualification :                         | 40%      |
| 8. Professional qualification :                  | 40%      |
| 9. Graduation (in the concerned subject):        | 5%       |
| 10. Post Graduation (in the concerned subject) : | 5%       |
| 11. M.Phil (in the concerned subject) :          | 5%       |
| 12. Ph.D (in the concerned subject) :            | 5 marks” |

4. The dispute that arises for adjudication is, “Whether the petitioner is entitled to 5% additional marks for possessing degree of B.A in Fine Art? It may be noted here that while calculating the merit, the petitioner who also possesses the Post Graduation Degree in Fine Arts has been given 5% additional marks. The select committee has formed an opinion that the degree of Bachelor of Arts with one of the course subjects as Fine Arts does not fulfill the criteria of Graduation in the concerned subject. Bachelor of Fine Arts is a separate course that focuses on the study and practice of visual or performing arts. It has been found by the select committee that the petitioner does not possess the Graduation degree in Fine Arts, hence, she is not entitled to be given additional marks under category 9.

5. Learned counsel representing the petitioner while relying upon the judgment passed in **Parvaiz Ahmad Parry vs. State of Jammu & Kashmir & others 2015 (17) SCC 709** submits that B.A, with one of

the subjects as Fine Arts, fulfills the requirement of Graduation in the concerned subject.

6. This Court has carefully read the judgment relied upon by the learned counsel representing the petitioner. In that case, the appellant completed B.Sc with Forestry as one of the major subject. Subsequently, he completed M.Sc (Forestry). As per the recruitment rules, the requirement was B.Sc (Forestry) or its equivalent from any University recognized by the Indian Council of Agricultural Research. In that context, the Supreme Court held that the appellant possess the minimum qualification. In the present case, the facts are entirely different. Hence, the aforesaid judgment does not help the petitioner.

7. The select committee has formed an opinion on the basis of facts, which have been noticed above. While exercising the writ jurisdiction, the Court is not required to substitute its opinion in place of the opinion formed by the select committee constituted for that particular matter unless the conclusion drawn is patently arbitrary or manifestly illegal.

8. In view of the aforesaid facts and discussion, no ground to issue the writ, as prayed for, is made out.

9. Hence, dismissed accordingly.

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

12.04.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)  
JUDGE