

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

CWP-15661-2017
Reserved on: 15.03.2023
Pronounced on: 27.03.2023

Archana

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. S.S. Shekhawat, Advocate, for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

HARNARESH SINGH GILL, J.

The petitioner prays for issuance of a writ in the nature of Certiorari quashing the result dated 27.07.2014 (Annexure P.12) declared by respondent No.2, qua the petitioner.

As per the facts on record, the Haryana School Teachers Selection Board (now Haryana Staff Selection Commission – respondent No.2 [for short 'the Commission']) on 07.06.2012 advertised 760 posts of Post Graduate Teacher (PGT) Biology. The petitioner had applied for the said post under General Category. The petitioner asserts that she completed her B.Sc. in 2002 with Botany and Zoology from Kurukshetra University, Kurukshetra and that in the year 2004, she passed her Master of Science in Food Science and Technology from Chaudhary Charan Singh Haryana Agricultural University, Hisar and Master of Philosophy in Food and Nutrition in the year

2008 from Vinayaka Missions University, Salem, Tamilnadu. In 2010, the petitioner passed her B.Ed. from Kurukshetra University and also passed Haryana Teacher Eligibility Test (HTET) from the Board of School Education Haryana in the year 2011.

It is the further case of the petitioner that she was found eligible and issued Roll No. 15101164 on 16.07.2012 and was called for documents verification and interview on 18.10.2012 and the documents verification and the interview of the petitioner was conducted. However, the petitioner received a letter dated 01.02.2013 intimating her that she did not possess the requisite essential academic qualification on the cut-off date as per service Rules. Thereafter, the petitioner filed a representation on 14.02.2013 to the Secretary, Haryana School Teacher Selection Board, Panchkula, for reconsideration of her case. The petitioner had also enclosed a letter issued by the University clarifying that M.Sc. Food Science and Technology course is covered under the Life Science subject. The petitioner had earlier filed CWP-18367-2014, but the said writ petition was disposed of by a Coordinate Bench of this Court on 04.12.2014, in view of the fact that the Haryana School Teachers Selection Board itself had been disbanded. Liberty, however, was granted to the petitioner to approach the State Government or any other recruitment agency duly nominated by the State. The petitioner asserts in terms of the liberty aforesaid, the petitioner had moved representations to the Director, Secondary Education, Haryana; Chief Secretary to Government of Haryana, Education

Minister, Haryana and chief Minister Haryana, besides registering her grievance at CM Window on 28.04.2015. However, the said representation did not yield any response.

Learned counsel for the petitioner argues that the impugned action of rejecting the candidature of the petitioner is totally illegal, especially when the petitioner had submitted a certificate dated 17.12.2012 issued by Chaudhary Charan Singh Haryana Agricultural University, Hisar to the effect that all courses related to the department, including the course in Food Science & Technology, are covered under the Life Science Subjects. It is further contended that having possessed the degree of Master of Science in Food Science and Technology from, the said University, the petitioner fulfilled the criteria of requisite essential qualification and, thus, the impugned action of the respondents is not tenable in the eyes of law.

In support of his arguments, learned counsel for the petitioner relies upon the Division Bench judgment of this Court in CWP No. 13125-2012 - Babli Vs. State of Haryana and others, decided on 04.12.2012 wherein a similar issue with regard to the eligibility for appointment to the post of PGT (Biology) arose for consideration and the claim of the petitioner therein was allowed.

Reliance is also placed upon the Coordinate Bench judgment of this Court in CWP-19046-2012 - Kajal Vs. State of Haryana and others, decided on 26.05.2014.

On the other hand, the learned State counsel while vehemently opposing the arguments raised by the learned

counsel for the petitioner, would submit that the petitioner is seeking equivalence of the qualification; that such a course cannot be adopted in the writ jurisdiction, as evaluation of the equivalence of the qualification, can only be decided by the expert body and not by the Court. Reliance is placed upon the judgment of the Hon'ble Apex Court in Madras Institute of Development Studies and another Vs. Dr. K. Sivasubramaniyan and others, 2015 AIR SC 3643 and a judgment of this Court in CWP-5436-2022 – Narender Kumar Vs. State of Haryana and another, decided on 31.01.2023.

I have heard the learned counsel for the parties and have gone through the record of the case.

The question that arises for consideration in the present case is whether the petitioner's degree in M.Sc. Food Science and Technology, is covered under the head of Life Sciences or not?

As per the advertisement dated 07.06.2012 inviting online applications for direct recruitment for PGT in various subject, the following was the Essential Qualification for the post of PGT (Biology):-

“M.Sc. Zoology /Botany/ Bio-Science/Bio-Chemistry/Genetics/ Micro-Biology /Plant Pathology /Bio-Technology/Life Science/Molecular Bio with at least 50% marks provided that the applicant had studied Botany & Zoology in Graduation level and B.Ed. from recognized University.”

A perusal of the written statement filed on behalf of respondent No.2-Commission, would show that a stand has been taken therein that the petitioner is seeking equivalence of the qualification. Apart from that stand, there is no counter to the certificate produced by the petitioner along with her representation, wherein the University had clarified that the degree in Master of Science in Food Science and Technology, is covered under the head of 'Life Science'.

The issue thus boils down, whether the educational qualification possessed by the petitioner as on the cut-off date, was in commensurate with the one prescribed in the advertisement in question. The advertisement was issued on 07.06.2012; the petitioner had acquired the qualification in M.Sc. Food Science and Technology, in the year 2004, which is much prior to the cut-off date. The petitioner had participated in the recruitment process and her documents were also verified and she had also been interviewed. However, communication dated 01.02.2013 issued by the Secretary, Haryana School Teachers Selection Board, Panchkula, she was informed that she did not possess requisite essential academic qualification on the cut-off date as per service Rules. The representation filed by the petitioner, thereafter, did not evoke any response from the respondents' end.

In CWP-13125-2012 – Babli Vs. State of Haryana and others decided on 04.12.2012, a Division Bench of this Court, considered the similar issue and held as under:-

“7. It follows from the above that there is no specific course known as “Life Science”. In fact, in all the four universities run by the State of Haryana itself, Life Science is a Faculty and these universities are running various M.Sc. courses under the aforesaid Faculty of Life Science. It is also clear from the above that it is Maharishi Dayanand University, Rohtak, which is running maximum M.Sc. courses under Life Science as it has specified 16 such courses. Therefore, it is clearly inferred that any candidate who has done any such M.Sc. course, specified in the said list of 16 courses, as extracted above, would qualify M.Sc. Life Science.

xxx xxx xxx

“10.....In the absence of any other reply coming forward and having regard to the courses explained by the four universities of the State of Haryana, we are left with no option but to hold that the candidates who have done any of the aforesaid 16 M.Sc. courses, would satisfy the eligibility condition by covering his/her case as M.Sc. Life Science. By holding so, we are not going into the issue as to whether it is equivalent to the other courses i.e. M.Sc. Zoology/ Botany/ Bio Science/ Bio Chemistry etc. That would have been the case if the discipline of Life Science had not been mentioned and this Court had undertaken the exercise as to whether Life Science is equivalent to the other courses. It is stated at the cost of repetition that M.Sc. Life Science would include as one of the qualifications under the Rules itself. As a result of this, the petitioners, wherein they have done one or the other M.Sc. course of the aforesaid 16 M.Sc. courses, would be treated as eligible for consideration to the post of PGT Biology.”

In Kajal’s case (supra), similar issue came up for consideration before a Coordinate Bench of this Court and the Coordinate Bench of this Court, while relying upon the Division

Bench judgment in Babli's case (supra), held that when a candidate claims inclusion of course in a particular stream, the same cannot be treated to be equivalence of the course. The relevant extracts from the judgment would read as under:-

“Present is a case where the petitioner is not seeking equivalence of the course but is seeking that the course done by her is included in 'M.Sc. Life Sciences'. The principle, as laid down by the judgment in Rakesh Kumar's case (supra), would thus, not be applicable to the case in hand. Similarly, in Roop Chand's case (supra), which was an order passed by another Co-ordinate Bench which would not be of much help to the respondents, where again, the equivalence of a qualification was sought to be asserted by the petitioner and the said claim was dismissed on the ground that it was not a duty of the Court nor could the Court go into this aspect.

No doubt, reliance by the counsel for the State upon an order passed by this Court in Nitesh's case (supra) would be in his favour as it related to the same selection and virtually the same qualification and degree as of the petitioner but the said judgment has been passed by this Court without taking into consideration the principles, as have been laid down by the Division Bench in Babli's case (supra) rather this Court had proceeded to place reliance upon the judgment in Rakesh's case (supra) where the question was with regard to the equivalence of the qualifications possessed by a candidate and not inclusion of a degree within the broader degree, which was sought to be treated as a required qualification for the post. Proceeding on the principle of equivalence, the Court had further relied upon the judgment in Vikas Sharma's case (supra), which also would not

be, on principle, applicable to the case in hand. The decision, therefore, rendered by this Court in Nitesh's case (supra) may not to be laying down the correct proposition in law and, therefore, I am not inclined to follow the same.”

The judgment of the Hon’ble Apex Court in Madras Institute of Development Studies lays down the ratio as regards the equivalence of the qualification. It was held that equivalence task can only be carried out by the experts and not by the Court.

In Narender Kumar’s case (supra), this Court has examined the question of equivalence of the qualification. While placing reliance upon the judgment of the Hon’ble Apex Court in Devender Bhaskar & Ors. Vs. State of Haryana & Ors., 2022(2) PLR 644, it was held 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 qualification nor decide the equivalence of the prescribed qualification with any other given qualification.

In view of the above, the present writ petition is allowed.

The respondents are directed to consider the petitioner eligible for appointment to the post of PGT (Biology) considering that the course done by the petitioner i.e. Master of Science in Food Science and Technology, is covered under the Faculty of Life Sciences, as has been held by the Division Bench

of this Court in Babli's case (supra) and if found meritorious, she
be given appointment, accordingly.

27.03.2023
ds

(HARNARESH SINGH GILL)
JUDGE

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