

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-21199-2016 (O&M)
Reserved on : 14.03.2023
Pronounced on: 21.03.2023

Gurvinder Kaur

...Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Harpal Singh, Advocate, for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

HARNARESH SINGH GILL, J.

The petitioner has sought a writ of Certiorari quashing the result dated 07.09.2016 (Annexure P.4) declared by respondent No.2 and action of the said respondent in verbally ousting the petitioner from the interview.

As per the facts on record, Haryana Staff Selection Commission had issued Advertisement No. 4 dated 28.05.2015 on behalf of the Department of Secondary Education, Haryana, inviting online applications for filling up total 6874 posts of Post Graduate Teacher (PGT) H.E.S. II (Group-B Services), including 18 posts of PGT Physical Education listed at Category No.11 in the advertisement. The petitioner being eligible, had applied under the Scheduled Castes Category and had qualified the written examinations conducted on 04.03.2016 and her name had also figured in the merit list.

It is the case of the petitioner that she had been issued Admit Card On 29.08.2016 and was called for verification of the documents and interview on 02.09.2016. She remained present at the given place for the document verification and interview, and showed her documents to the authorities, but she was not interviewed and when asked, she was told verbally that she was not possessing the requisite qualification of Bachelor of Physical Education (B.P.Ed) or Diploma in Physical Education (D.P.Ed) or its equivalent from a recognized University.

Learned counsel for the petitioner would vehemently argue that the petitioner is having higher qualification i.e. M.P.Ed. and M.Phil in the Physical Education; that she had shown the relevant documents in this regard to the authorities concerned, but to no avail. It is further submitted that B.P.Ed. being lower qualification than M.P.Ed. and M.Phil, the action of respondent No.2 in not interviewing the petitioner, is totally illegal and arbitrary.

In support of his contentions, learned counsel for the petitioner relies upon the judgment of the Full Bench of this Court in CWP-451-2008 – Manjit Singh Vs. State of Punjab, decided on 05.02.2010. Reliance is also placed upon the Division Bench judgment of this Court in LPA-1458-2012 – Rishi Pal and others Vs. Haryana State Cooperative Supply & Marketing Federation Limited, decided on 30.11.2012.

On the other hand, learned State counsel, while contradicting the assertions of the petitioner, would argue that the petitioner was not having requisite qualification for being appointed as PGT Physical Education and that the petitioner has

herself averred in the writ petition that she was not having any Bachelor Degree in Physical Education. It is further submitted that the petitioner, did not turn up for interview on 02.09.2016 and, it was clearly stipulated that no further chance would be granted. The learned State counsel strenuously argues that the reason for the petitioner's absence from the interview process was, thus, obvious.

I have heard the learned counsel for the parties and have also gone through the case file.

It may be noticed that the requisite qualification for the post of PGT Physical Education was – “M.A. Physical Education or M.P.Ed with at least 50% marks; and Bachelor of Physical Education (B.P.Ed) or Diploma in Physical Education (D.P.Ed) or its equivalent from a recognized University.” The said stipulation clearly makes out that either a candidate should be M.A. Physical Education or M.P.Ed. with at least 50% marks with a Bachelor of Physical Education (B.P.Ed) or Diploma in Physical Education (D.P.Ed.).

Indisputably, the petitioner neither possesses a Bachelor's degree in Physical Education i.e. B.P.Ed. nor a Diploma in Physical Education (D.P.Ed.). As noticed above, the qualification of M.A. Physical Education or M.P.Ed. with at least 50% marks has to be read in conjunction with a Bachelor Degree in Physical Education or Diploma in Physical Education. Combination of the two sets of qualifications, is a condition precedent for being eligible for appointment to the post of PGT (Physical Education).

In the above backdrop, the assertions of the

petitioner that M.P.Ed or M.Phil in the Physical Education would automatically cover the lower qualification i.e. B.P.Ed. or D.P.Ed., is without any merit.

The issue involved in Manjit Singh's case (supra), was whether a candidate possessing higher qualification than the one prescribed and advertised for appointment to the posts, is eligible for such selection/appointment. In the said case, the essential qualification stipulated for the post of physical Training Instructor (PTI) was a Certificate in Physical Education (C.P.Ed.), whereas the petitioner was possessing the qualification of B.P.Ed and M.P.Ed. It was in these circumstances, the Full Bench held that the candidates possessing higher qualification in the same line, cannot be excluded from consideration for selection.

However, in the instant case, the advertisement does clearly stipulates that a candidate must have M.A. in Physical Education or M.P.Ed. with 50% marks and a Bachelor Degree in Physical Education or Diploma in Physical Education. In this case, there is no minimum qualification and even if the minimum qualification is to be read into, it has to be either of the two in the first part and the later part. The qualification clause contains the words 'and Bachelor of Physical Education....' and not "or Bachelor of Physical Education....'. Therefore, the reliance of the petitioner on the said judgment is of no help to him.

In Rishi Pal's case (supra), as against the prescribed qualification of one year Diploma in Computer from the recognized University/Institution, the appellants therein were having the qualification of Bachelor of Science in Information

Technology (B.Sc. IT) or Bachelor of Computer Application (BCA) or Master of Computer Application (MCA) etc. It was under those circumstances, the Division Bench, held that once, the appellants were having higher qualifications than the minimum prescribed in the advertisement, the respondents therein ought to have allowed them to participate in the recruitment/selection process.

In the instant case, both, a Bachelor Degree in Physical Education or Diploma in Physical Education, and M.A. in Physical Education or M.P.Ed. in Physical Education, are the requisite essential qualifications. Once, the petitioner is lacking one of them, she cannot allege any arbitrariness or illegality on the part of the respondents.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

21.03.2023
ds

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No