

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CWP-5079-2013

Date of decision: 07.02.2023

NEELAM BANGA

..Petitioner

Versus

STATE OF PUNJAB & ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gagan Pradeep S. Bal, Advocate
and Mr. Sahil Bansal, Advocate
for the petitioner.

Mr. D.K. Singal, Addl. A.G., Punjab.

Mr. Gagneshwar Walia, Advocate
for respondent No. 4.

ANIL KSHETARPAL, J(Oral)

1. The petitioner prays for the issuance of a writ in the nature of certiorari to quash the selection of respondent No.4 to the post of lecturer in Physiology. It is the case of the petitioner that respondent No.4 though was ineligible at the relevant time but still has been selected and appointed to the said post on account of her being the daughter of respondent No.5, who has died.

2. The petitioner claims that respondent No.4 did not possess the requisite experience as required for the post as per the recruitment notice, at the time of her appointment.

3 The recruitment notice was issued in the year 2011 and the required qualifications and experience for the post of lecturer reads as under:-

“Qualifications and Experience

Sr. No.1 to 5

*(i) Basic University Medical Qualification
included in the First or the Second Schedule*

or part II of the Third Schedule to the Indian Medical Council Act, 1956 with good academic career except in the case of Bio-Chemistry where it is preferential.

(ii) Must be registered under the State or Central Medical Registration Act, except in the case of non-medical men.

(iii) Must possess at least two years teaching experience as Demonstrator, Registrar or Research Assistant in a teaching institution.

Note 1.- Benefit upto the extent of one year in allied basic or clinical subject and for rural service shall be admissible.

Note 2.- Experience on the post of Assistant Demonstrator or Assistant Registrar will be counted as half as compared to experience on the posts of Demonstrator or Registrar.

Note 3.- (i) In the Departments of Anatomy, Physiology, Pharmacology and Microbiology, in the event of non-availability of suitable qualified medical men for teaching these subjects, non-medical scientists possessing M.Sc. Qualification in the subject concerned preferably possessing doctorate qualifications and possessing requisite experience as laid down in the rules' in respective subjects may be appointed upto a maximum of 30 per cent of the total strength of the teaching staff of the concerned department.

Prescribed Essential Qualifications are minimum and mere possession of the same does not entitles a candidate to be called for interview. Where the number of applications received in response to the advertisement will be large and it will not be convenient or possible for the Government to interview all the candidates, the Government may restrict the number of candidates for interview to a reasonable size on the basis of qualification/higher marks/experience higher than the minimum prescribed or by holding a screening test. ”

4. The respondents while filing separate replies, have contended that respondent no.4 had sufficient experience at the time of submitting the application.

5. In this case, the cut off date for assessing the eligibility to the said post was 30.12.2011. Respondent No.4 while filing the reply has given the details of her experience which reads as under:-

Detail of Experience							
Sr. No.	Department/organisation	Post Held	From	To	Total Experience	Pay Scale	Remarks (IF any)
1.	Forensic Med.	Demonstrator	01.12.06	10.01.08	1 year 9 days	18,000/-	1 year 1 month 9 days
2.	GMC, Patiala	PGJR	11.01.08	27.01.11	3 years	18,000/-	
3.	Gian Sagar	Demonstrator	28.01.11	30.11.11	10 months	35,000/-	10 months 02 days
4.	PIMS JID	Assistant Professor	02.12.11	27.09.12	10 months	60,000/-	23 days
5.	GNMMC	Assistant professor	28.09.12	30.11.12		70,000/-	

6. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

7. The learned counsel representing the petitioner, while referring to page 57 of the paperbook, submits that the experience gained by a post-graduate student only in the subject in which the graduation degree has been acquired shall be considered as approved experience for the post of lecturer. However, he submits that respondent No.4 has experience in the department of Forensic Medicine, though, she was selected as lecturer in the subject of Physiology.

8. On the other hand, the learned counsel representing the State of Punjab supported by the learned counsel representing the private respondent No.4 contends that para 3 of the eligibility conditions qua the post of lecturer relied upon by the respondent is with reference to the recruitment notice issued in the year 2003 which has no relevance in the present case. They submit that as per the recruitment notice applicable in the present case, the requirement was to the effect that the candidate must possess at least 2 years

experience as Demonstrator, Registrar or Research Assistant in the teaching institution.

9. This Court has considered the submissions of the learned counsel representing the parties.

10. The recruitment has taken place in accordance with recruitment notice issued in the year 2011. As per the said notice, the requirement is that the candidate should possess at least 2 years teaching experience as Demonstrator, Registrar or Research Assistant in a teaching institution, however, there is no requirement that the candidate must have gained such experience after completing her post graduation course. The requirement is only that the candidate must possess two years experience in a teaching institution. It is evident from the information compiled by the respondent No.4 while giving the details of her experience that she has worked as a Demonstrator for nearly 2 years. Thereafter, she has also worked as Assistant Professor.

10. Moreover, respondent No.4 was appointed in the year 2013. It has been nearly been 10 years.

11. Keeping in view the aforesaid facts, no ground to issue the writ as prayed for by the petitioner, is made out.

12. Dismissed.

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

February 07th, 2023

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**(ANIL KSHETARPAL)
JUDGE**

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