

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

**CWP-8774-2014 (O&M)
Date of decision: 30.01.2023**

Yeshwant Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- None for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of certiorari for quashing of column i.e. (i) of the Govt. Instructions dated 21.11.1980 (Annexure P-10) and in consequence Note 2 (a) of Appendix-A of Advertisement No.1/2012 dated 07.06.2012 (Annexure P-2) and to direct the respondent No.2 to select/appoint the petitioner to the post of Post Graduate Teacher (Chemistry) under the Backward Class-Dependant of Ex-servicemen (BC-DESM) Category.

Short reply filed by Secretary (Legal), Haryana Staff Selection Commission on behalf of respondent No.2 is already on record.

As per the contents of the petition, the petitioner had applied for the post of PGT (Chemistry) in terms of the advertisement No. 01/2012 dated 07.06.2012, being eligible. As the petitioner is having teaching experience for more than 04 years, he is seeking exemption from passing Haryana Teacher Eligibility Test (HTET) and appointment under DESM Category on the post.

Learned State counsel draws the attention of this Court to the

aforesaid short reply and submits that the petitioner was considered in BC category instead of BC-DESM Category for the post of PGT (Chemistry), as he was not having the relevant certificate on the 'cut-off' date i.e. 28.06.2012 of the closing date of submission of application form. The DESM Certificate issued by Zila Sainik Board, Bhiwani, was produced by the petitioner on 22.08.2012, which was after the cut-off date i.e. 28.06.2012. The petitioner is not entitled for relief as prayed for in view of the judgment rendered by Hon'ble Supreme Court in 'Ashok Kumar Sonkar Vs. Union of India and others', 2007(3) Supreme 956, as the 'cut-off' date was 28.06.2012 and at that time, the petitioner was not in possession of the requisite certificate. The relevant Para of short reply is as under:-

“XXXX

In this connection, it is, respectfully, submitted that the Respondent-Commission is a recruiting agency and carries out the recruitment as per the qualification prescribed by the respective department i.e. Education Department, Haryana in the instance case and Govt. instructions issued from time to time. It is further submitted that the petitioner namely Yeshwant applied for the post of PGT (Chemistry) against Advt. No. 1/2012, Cat. No. 2 in BC Category and sub-category Dependant of Ex-servicemen (DESM). At the time of verification/scrutiny of documents-cum-interview the petitioner produced the DESM certificate issued by Zila Sainik Board, Bhiwani on 22.08.2012, which was after the cutoff date i.e. 28.06.2012 of the closing date of the submission of the application form. Accordingly, the candidature of the petitioner was considered in the BC category instead of BC (DESM) category under Roll No. 21820717 for the post of PGT (Chemistry). The petitioner has secured total 42.79 marks (academic qualification 27.79 marks +viva-voce 15 marks) and the last selected candidate in BC category has obtained 53.18

marks. Hence, due to lesser marks than that of last selected candidate in BC category the petitioner could not find place in the selection zone.

xxxx”

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

The petitioner had applied for the post of PGT (Chemistry) under BC-DESM category, in terms of the advertisement No. 01/2012 dated 07.06.2012, being eligible and is seeking exemption from passing HTET and appointment under DESM Category on the post, as he is having teaching experience for more than 04 years. But as the petitioner was not having the requisite DESM Certificate on the cutoff date i.e. 28.06.2022, he was considered under BC Category instead of BC-DESM Category. The petitioner secured 42.79 marks and 53.18 marks were secured by the last selected candidate in the BC category, thus, the petitioner does not fall in the consideration zone.

Since the petitioner was not having proper/requisite DESM certificate in terms of the advertisement No. 01/2012 dated 07.06.2012 at the relevant time and in view of the law laid down by the Hon’ble Supreme Court in Ashok Kumar Sonkar’s case (supra), no direction can be issued to the respondents as prayed for.

In view of the above, the present petition is dismissed.

(HARNARESH SINGH GILL)

JUDGE

30.01.2023

Mangal Singh

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No