

CWP-29102-2018

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

CWP-29102-2018

Date of decision: 22.05.2023

Sonia Dubey

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Karanveer Singh, Advocate,
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

1. The present petition has been filed for issuance of directions to the respondents to call the petitioner for interview for the post of Trained Graduate Teacher (TGT) Science, under Category No.01, in pursuance of the Advertisement No.03/2015 dated 28.06.2015.

2. Learned counsel for the petitioner submits that being eligible, the petitioner had applied for the aforesaid post, under the SC Category, and that after having qualified the written examination, the petitioner was called for the interview on 26.09.2018, vide letter dated 17.09.2018, but she could not participate in the interview for the reason that she was suffering from viral fever.

3. Learned counsel for the petitioner further contends that vide letter/e-mail dated 28.09.2018 and 09.10.2018 (Annexures P-3 and P-4, respectively), the petitioner had requested respondent No.2-Commission to

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grant her another opportunity for the interview, and that the candidates, who remained absent during the process of interview for the post of LDC (Head Office/Field) of HVPNL against Advt. No.3/2016, had been granted another opportunity for the same.

4. Learned counsel for the petitioner further contends that in pursuance of the order dated 17.11.2018 passed by the Coordinate Bench, the petitioner had been interviewed, and that as per the result already produced in a sealed cover, the petitioner falls within the zone of consideration.

5. On the other hand, learned State counsel submits that the petitioner did not appear on the date of interview i.e. 26.09.2018 and that the petitioner had failed to comply with the terms and conditions contained in the notice/advertisement. He further submits that even the petitioner did not inform respondent No.2-Commission about her illness on the date of interview i.e. 26.09.2018 and that the belated retraction made by the petitioner is an afterthought. In support of his contentions, he relies upon the judgment rendered by the Coordinate Bench in CWP-3863-2013, titled as 'Balwinder Kaur Vs. State of Punjab and others', decided on 17.11.2017.

6. I have heard the learned counsel for the parties.

7. Having cleared the written examination, the petitioner was called for the interview, vide notice (Annexure P-2). However, she could not participate in the interview. It is the specific case of the petitioner that owing to her illness, she could not participate in the interview and vide letter/e-mail dated 28.09.2018 and 09.10.2018 (Annexures P-3 and P-4,

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respectively, she had requested respondent No.2-Commission to grant her another opportunity to participate in the interview while mentioning that the candidates, who were absent during the process of interview for the post of LDC (Head Office/Field) of HVPNL against Advt. No.3/2016, had been granted another opportunity for the same.

8. Vide order dated 17.11.2018 passed by the Coordinate Bench, the respondents were directed to provisionally interview the petitioner and keep her result in a sealed cover. On 12.09.2022, learned State counsel stated that the petitioner had secured more marks than the last selected candidate.

9. The purpose of conducting the examination by respondent No.2-Commission is to select meritorious candidates. A job aspirant leaves no stone unturned to qualify the written examination. In the present case, after having cleared the written examination, the petitioner could not participate in the interview due to the reasons beyond her control. At the risk of repetition, it is reiterated that the petitioner falls within the zone of consideration. Moreover a perusal of the notice (Annexure P-6) would show that the candidates who were absent for viva-voce/interview on 16.11.2016 and were also absent for Scrutiny of Documents on 02.12.2016 and 30.12.2016 for the post Junior Engineer (Civil) against Advertisement No.2/2015, Category No.09, were also given another opportunity for the scrutiny of documents on 23.01.2017. It is also a specific case of the petitioner that the Commission also decided to give last opportunity on 10.07.2017 to the candidates, who did not appear for interview-viva voce for the post of LDC (Head office/field) of HVPNL, against Advertisement

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No.3/2016, Category No.7.

10. It is a settled law that the substantial justice to that of hyper-technicality should be preferred to avoid the defeat for the ends of justice. As such, the petitioner being one of the meritorious candidates, deserves selection for the aforesaid post on her own merit. This Court is conscious of the judgment(supra) relied by the learned State counsel, but the same is not applicable to the present case having distinguishable facts, for the reason that candidature of the petitioner therein was rejected on the ground that he had not furnished a valid caste certificate.

11. In view of the above discussion, the present petition is allowed and the respondents are directed to offer appointment letter to the petitioner for the aforesaid post on her own merit. The needful shall be done within a period of three months from the date of receipt of copy of this order.

22.05.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No