

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

**CWP-30365-2022 (O&M)
Date of decision: 24.01.2023**

Poonam

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

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

Mr. R.S. Budhwar, Addl. AG Haryana.

Ms. Harpriya Khanika, Advocate for respondent No.3-HPSC.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of certiorari for quashing the announcement dated 26.04.2022 (Annexure P-6), only to the extent of condition No. 8 in it, whereby adding further essential qualification of 45% marks in the written test for reserved category candidates and 50% for unreserved category candidates, being in contravention of the Service Rules and to the qualifications prescribed in the advertisement No. 11 of 2021 and All India Council for Technical Education (AICTE) Regulations 2010 and also to quash the result of written examination-cum-notice for interview dated 16.08.2022 (Annexure P-8) and final result dated 22.11.2022 (Annexure P-18).

Learned counsel for the petitioner submits that the petitioner had applied for the post of Lecturer Civil Engineering in Technical Education Department, Haryana (Group-B Posts) under General-Dependent of Ex-Servicemen (Gen.-DESM) Category in terms of advertisement No.11(v)/2021 on 09.12.2021. The relevant Service Rules are 'Technical Education

Department (Group-B) Service Rules, 2019' (Annexure P-2). On Note (vii) of the advertisement, the Commission has prescribed proper criteria for short-listing the candidates and one of those was 'e' i.e. 'By holding a recruitment Test' and on Point No. 8 information qua the Service Rules for the Posts was given. Thereafter, vide subsequent announcement dated 26.04.2022, the Commission has put condition No. 8 that 'No candidate shall be called for the interview/viva-voce unless he/she obtains at least 50% qualifying marks in the recruitment test of unreserved Category and 45% marks for all reserved categories (except Dependent of Ex-Servicemen), which is against the Service Rules and Regulations of the AICTE. The petitioner has submitted a representation on 23.08.2022 (Annexure P-11) after issuance of announcement dated 26.04.2022. This condition was not applied on the other posts in the advertisement and different methods were adopted on the same process by the Commission.

Learned counsel for the petitioner further submits that the petitioner appeared in the written examination on 11.06.2022 and the result was declared on 16.08.2022. The interview was scheduled between 09.09.2022 to 11.09.2022. As per the norms, the candidates up to three times the number of posts were to be called but only two candidates against three posts in the category were called. It shows that different kind of minds and treatments for the same set of persons was applied and also imposed condition No.8 vide subsequent announcement dated 26.04.2022. In support of his case, learned counsel for the petitioner relies upon the judgment rendered by Hon'ble Supreme Court in 'K. Manjusree Vs. State of A.P. & Anr.' 2008 AIR (Supreme Court) 1470 and order passed by a Coordinate Bench of this Court in CWP-20306-2022 titled as 'Aman Soni Vs. State of Haryana and others'.

Notice of motion.

Learned State counsel and learned counsel for respondent No.3 accept notice.

Learned State counsel points out that to maintain the standard and quality of education, such conditions/methods have been followed for the recruitment of the Teachers.

Learned counsel for respondent No. 3 while controverting the submissions of the learned counsel for the petitioner submits that the petitioner was not called for interview as she was not found eligible. No doubt that only two candidates were called for interview for the posts in question instead of calling three times the number of posts, because there was no other successful candidate except those two. It is clear cut mentioned on Note (vii) of the advertisement that in the event of number of applications being large, the Commission will adopt short-listing criteria to restrict the number of candidates to be called for interview to a reasonable number by any or more methods given therein. The subsequent announcement dated 26.04.2022 is not an additional criteria but by it only the manner of recruitment test was defined. She relies upon the judgments rendered by the Hon'ble Supreme Court of India in 'Arunachal Pradesh Public Service Commission another Vs. Tage Habung and Ors.', 2013 AIR (Supreme Court) 1601, A.P. Public Service Commission Vs. Balaji Badhavath & Ors.' 2009(4) SLR 635, and 'K.H. Siraj Vs. High Court of Kerala and Ors.' 2006 AIR (Supreme Court) 2339.

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

The posts of Lecturers (Group-B) in various subjects and

Foreman Instructor in Technical Education Department were advertised by respondent No.3-Haryana Public Service Commission on 09.12.2021 vide advertisement No.11/2021. The petitioner had applied for the post of Lecturer in Civil Engineering under General-DESM Category and there were total 03 posts in the Category. As per the learned counsel for the petitioner proper conditions were laid down in the advertisement, specially Note (vii), which reads as under:-

- (vii) In the event of number of applications being large, Commission will adopt short listing criteria to restrict the number of candidates to be called for interview to a reasonable number by any or more of the following methods:-
- (a) On the basis of percentage of marks of the candidates in the minimum educational qualification prescribed in the advertisement.
 - (b) On the basis of percentage of marks of the candidates in different educational qualifications, with weightage as decided by the Commission.
 - (c) On the basis of desirable qualifications or any one or all of the desirable qualifications if more than one desirable qualification is prescribed.
 - (d) On the basis of higher educational qualifications than the minimum/essential prescribed in the advertisement.
 - (e) By holding a Recruitment Test.”

The Commission vide subsequent announcement dated 26.04.2022 in response to advertisement No.11/2021 and Corrigendum dated 28.01.2022 notified that there will be a recruitment test for the posts of Lecturer Group-B in various subjects and Foreman Instructor in Technical Education Department and also issued Scheme/Pattern of Recruitment Test and the process of selection was changed. Point No. 8 of the subsequent announcement dated 26.04.2022 is as under:-

“8. No candidate shall be called for the interview/viva-voce

unless he/she obtains at least 50% qualifying marks in the recruitment test for unreserved category and 45% marks for all reserved category (except dependent of ex-servicemen)".

It is also argued by the learned counsel for the petitioner that vide announcement dated 05.03.2022 (Annexure P-15) list of 10 candidates was issued, whose candidature was found to be eligible/liable for rejection for the reasons mentioned therein with a direction to the candidates whose candidature was rejected to make a representation, if any, against their proposed rejection along with documentary proof latest by 11.00 am on 08.03.2022 on email given therein. The name of petitioner was also given in the list.

The petitioner appeared in the written examination on 11.06.2022 and the result was declared on 16.08.2022. The petitioner was not called for the interview, as she was not found eligible.

In view of the above, this Court is of the opinion that respondent No.3 has rightly added Note (vii) in the advertisement and clause 8 vide subsequent announcement dated 26.04.2022 (Annexure P-6) that 'No candidate shall be called for the interview/viva-voce unless he/she obtains at least 50% qualifying marks in the recruitment test for unreserved category and 45% marks for all reserved category (except dependent of ex-servicemen)'. This was done for short-listing the candidates. Vide announcement dated 05.03.2022, opportunity to make a representation was given to the candidates whose candidature was rejected. Moreover, after conducting the interviews on 08.09.2022 and 11.09.2022, the final result has already been declared by respondent No.3.

Finding no flaw in the process adopted by respondent No.3, no

relief as sought for can be granted to the petitioner, specially at this stage when the final result has already been declared on 22.11.2022.

Dismissed.

(HARNARESH SINGH GILL)
JUDGE

24.01.2023
Mangal Singh

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