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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-37715-2019 (O&M)
Date of decision : 08.05.2023

Ashwani Kumar

...Petitioner

Vs.

Chandigarh Administration
and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Mandeep K.Sajjan, Advocate
for the petitioner.

Mr. Anil Sharma, Advocate
for the respondent Nos.1 and 2.

MANOJ BAJAJ, J.

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of certiorari for quashing the result list (OBC Category) Annexure P-11 declared by the respondents for the post of Nursery Teacher, whereby he was declared ineligible, and for issuance of a writ in the nature of mandamus directing the respondent to appoint the petitioner on the post of Nursery Teacher.

Learned counsel submits that by way of advertisement in August,2019 (Annexure P-6), the respondents invited 131 online applications for Nursery Teachers (NTTs) and the petitioner submitted his online application, who also passed the written test held on 16.11.2019 securing 150 marks. He further submits that as per the result, he had qualified the said test in the OBC category and his name figured at Sr.No.7 in the list. Learned counsel has pointed out that thereafter, the petitioner was called for verification of

documents relating to his academic qualification, where he was declared ineligible on the ground that the petitioner has passed B.Ed (General) and not B.Ed (Nursery). Aggrieved against this, he submitted his reply, but no response was received, therefore, the petitioner has approached this Court to seek redressal of his grievance. Learned counsel has drawn the attention of the Court to his academic qualification i.e. Annexure P-3 to contend that the petitioner having cleared the qualification of B.Ed (General) and M.Ed. (General), and possesses a higher qualification than required, therefore, the action of the respondents in rejecting his candidature is violative of Articles 14 and 16 of Constitution of India. He further refers to notification dated 23.08.2010 (Annexure P-18) issued by National Council for Teacher Education to contend that for a person to be eligible for appointment as the Teacher for Class I to VIII, the minimum qualification is prescribed and as per this also, the petitioner possesses the requisite qualification. He prays that the impugned result list i.e. Annexure P-11 passed by the Document Checking Committee be set aside and the petitioner be declared eligible for the post of Nursery Teacher.

Upon hearing learned counsel for the petitioner and considering his submissions, this Court finds that the sole controversy raised in the petition revolves around his eligibility for the post of Nursery Teachers (NTT), and as per the advertisement the required qualification reads as under:-

“(i) Senior Secondary School Certificate (Class XII or its equivalent) from recognised board with at least 50 % marks

OR

Senior Secondary (Class XII or its equivalent) from recognized board with at least 45% marks in accordance with the NCTE Regulation, 2002 notified on 13.11.2022

AND

(ii) Diploma in Nursery Teacher Education/Pre-School Education/Early Childhood Education

Programme (D.E.C.Ed.) of duration of not less than two years, or B.Ed. (Nursery) from National Council for Teacher Education recognized institution.”

A reading of the above would show that the qualification mentioned at Sr.No.(ii) i.e. Diploma in Nursery Teacher Education of not less than two years, or B.Ed.(Nursery) is mandatory for the person applying for this post, but concededly, this qualification is not possessed by the petitioner.

During the course of hearing, it is not disputed by learned counsel that when he submitted his online application No.NT201909091029 dated 09.09.2019 (Annexure P-7), he mentioned his educational qualification in the form, and claimed that he possesses the essential qualifications as contained in the advertisement. A perusal of the said form would indicate that it contains a separate column for educational qualification details consisting of two sub columns i.e. Senior Secondary Diploma in Education, or D.Ed. (or) B.Ed. (NCT), wherein he furnished incorrect information, as admittedly, the petitioner does not possess the qualification of B.Ed.(Nursery), therefore, this Court has no hesitation in holding that his candidature has been rightly declined by the respondent. Once the petitioner by exercising deceptive moves claimed that he possesses the qualification of B.Ed.(Nursery), and appeared in the written examination and after clearing the same, the petitioner by his own act and conduct is estopped to stake claim for his appointment on the post of Nursery Teacher on the strength of the higher qualification.

Besides, it is also not disputed by learned counsel that the advertisement was issued in the year 2019 and selection process is now complete, wherein no such person having similar qualification like the petitioner has been selected and appointed to the post.

Lastly, the other argument relating to notification dated 23.08.2010 (Annexure P-18) also does not lend any strength to the case of the petitioner as this notification contemplates minimum qualification for the teachers to be appointed for Class I to VIII, whereas the petitioner’s application was for the post of Nursery Teacher Training.

Resultantly, in view of the above discussion, no case is made out for exercise of extra ordinary writ jurisdiction under Article 226 Constitution of India.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

08.05.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No