

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.107

CWP No.870 of 2024
Date of Decision: 25.01.2024

Poonam Rani

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sunil Kumar Nehra (Sirsa), Advocate for the petitioner.

Mr. Sanjeev Kaushik, Addl. A.G.Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the memo dated 23.12.2021, Annexure P-13; a writ of *mandamus* directing the third respondent to consider and recommend the petitioner for appointment to the post of PGT Sanskrit against advertisement no.4 of 2015, category no.16, dated 28.06.2015, Annexure P-1 and, further, directing the second respondent to appoint her against the vacant post of PGT Sanskrit in ESM category, as per instructions dated 30.04.2018, Annexure P-8.

2. It is contended that the third respondent-Commission issued an advertisement no.4 of 2015 inviting applications, among others, for 626 posts of PGT Sanskrit, Rest of Haryana cadre, category no.16; out of which

269 posts were unreserved and the rest were for reserved categories, which

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included 27 posts for ESM category. The closing date for submission of online applications was 21.09.2015. The petitioner applied for the said posts as a general category candidate; appeared in the written test and qualified the same. But she was not shortlisted for interview. The final result of the selection was declared on 01.01.2018, Annexure P-6. It is claimed that on her own assessment she scored hundred marks, whereas, the cut-off marks for general category candidates to appear in the interview were sixty-six. It is also claimed that twenty-one posts of ESM category remained vacant due to non-availability of eligible candidates, as per the final result of selection. Relying upon the instructions, dated 30.04.2018, learned counsel has contended that the vacant posts of PGT Sanskrit in ESM general category need to be filled up from general category candidates, and the petitioner needs to be considered for the same. He has also relied upon a Division Bench judgment of this Court in *Balwan Singh and another v. State of Haryana and others*, 2022(1) SLR 346, in this regard.

3. Heard.

4. A perusal of the impugned memo, dated 23.12.2021, shows that after considering the matter it was decided by the government that recruitment and selection process for the advertised posts was carried out under instructions, dated 15.07.2014, which were applicable at that time, and the subsequent instructions, dated 30.04.2018, will not be applicable to the process of selection in question. According to the former instructions, posts of ESM category remaining vacant due to non-availability of suitable candidates will have to be carried forward for the next requisition. Therefore, the unfilled vacancies of ESM/DESM category in the instant advertisement were decided to be carried forward for the next requisition.

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However, the instructions dated 15.07.2014, based upon which the impugned memo, dated 23.12.2021, has been issued, are not on record, nor have the same been challenged in the petition. Besides, learned counsel for the petitioner has not been able to establish as to why the said instructions, which were applicable at the time of initiation of the process of selection, should not be followed, and the vacant ESM posts should not be carried forward for the next requisition giving opportunity of selection to all the suitable candidates who gained eligibility in the interregnum which is justifiable keeping in view the fact that the advertisement in question was issued in 2015, more than nine years back.

4.1. Further, the petition has been filed merely on the assumption that the petitioner has scored more marks than those of the last selected candidate in general category, though she was never interviewed. The cut-off marks of last shortlisted candidate of general category for interview were sixty-six, and the petitioner presumes, based upon her own assessment, to have scored hundred marks in the written test. There is no basis of such presumption, nor has any material been placed on record to even *prima facie* substantiate the claim. Even the written test result, based upon which the candidates were called for interview, was never challenged by the petitioner.

4.2. Still further, the judgment in *Balwan Singh* case (*supra*) has no application to the facts and circumstances of the instant case, as it only upholds instructions, dated 30.04.2018, wherein the government has allowed filling up of posts from amongst eligible candidates of the main open/Scheduled Caste/Backward Class category candidates in case suitable ESM category candidates are not available, and does not deal with the instructions dated 15.07.2014 or its effect. It has also not been established

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that instructions, dated 30.04.2018, were issued by superseding the earlier ones.

5. In view of the discussion, the petition stands dismissed *in limine* being without merit.

(TRIBHUVAN DAHIYA)
JUDGE

25.01.2024
Maninder

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