

CWP-3092-2024 and
CWP-7844-2024

2024:PHHC:070510



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CWP-3092-2024
Date of Decision : 18.05.2024

Rohit Kumar and others

...Petitioners

Versus

State of Punjab and others

...Respondents

(105/2)

CWP-7844-2024

Avtar Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Himanshu Arora, Advocate and
Mr. Simranjit Singh Sidhu, Advocate for the petitioners
in CWP-3092-2024.

Mr. H.S. Saini, Advocate for the petitioners
in CWP-7844-2024.

Mr. Rohit Ahuja, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. By this common order, two writ petitions, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.



2. For the sake of convenience, facts are being taken from CWP No. 3092 of 2024.

3. In the present petition, the grievance being raised by the petitioners is with regard to the letter dated 03.04.2023 (Annexure P-11) by which, as per the petitioners, the qualifications, which have been prescribed for appointment to the various posts, as advertised vide Advertisement No. 6/21 dated 09.09.2022, have been changed by the respondent-State, which is not permissible as the same has been done during the process of selection.

4. The State of Punjab had formulated Rules called Punjab Police Technical and Support Services Cadre (Group-C) Rules, 2021 (hereinafter referred to as '2021 Rules') under which, various posts have been envisaged including the post of a Constable. Under 2021 Rules, the method as well as the essential educational qualification needed for appointment to the said post have been prescribed. For appointment to the post of Constable, minimum educational qualification required is a Graduation in any stream /discipline/specialization as may be specified by the Director General of Police depending upon the changing need and requirement of Society and the Police or the desired skill as required for discharging the duties of the post of the Cadre in question.

5. Keeping in view 2021 Rules, the respondents issued an Advertisement dated 09.09.2021 (Annexure P-1), advertising the post of Constable in Technical and Supports Services Cadre 2021. In the



Advertisement itself, Clause-7.4 dealt with the educational qualification, which prescribed Graduation or its equivalent from a re-cognized University in any of the discipline mentioned below.

6. It may be noticed that the posts of Constable were bifurcated for various domains such as Information Technology Service, Community and Victim Support and Counseling Services, Forensic Science, Human Resource Management, Legal Services, Road Safety and Regulation etc.

7. The petitioners applied for the post of Constable in the domain of Community and Victim Support and Counseling Services. For the post of appointment in the said domain, Bachelors/Masters Degree in Psychology/Sociology/Social Work from any University/Institution recognized by the Centre/State Government and are approved by the AICTE/UGC was laid down. The petitioners claim that they fulfill the said requisite qualifications.

8. As per the advertisement, for the purpose of selection the candidate had to go through two phases of selection process i.e. Phase-1 and Phase-2. Phase-1 of the selection process comprised of two written tests i.e. Test-1 and Test-2 and after qualifying in the said Phase, the candidate had to go through Phase-2, which comprised Physical Measurement Test, Physical Screening Test and Document Scrutiny. The petitioners cleared Phase-1 and were allowed to go in Phase-2.



9. During the conduct of Phase-2 of selection process i.e. Scrutiny of the documents, a question arose as to whether, the candidates with Bachelors Degree having studied subjects of Psychology/Sociology/Social Work during their Bachelors Degree/Course, are to be treated eligible for consideration against the post applied for by them as the Bachelors Degree is not given under any specific head.

10. On the said question, a clarification was communicated vide letter dated 03.04.2023 (Annexure P-11), wherein, it was mentioned that any candidate, who has a Bachelors Degree in Arts and studied subjects of Psychology/Sociology and Social Sciences for all the 3/4 years of the studies, the same will be treated as eligible. It was further stated that in case, Bachelor of Arts has been done while undergoing Semester system, in case the candidate has studied the subjects required for in each of the Semester while undergoing the academic Course of Graduation, he/she should also be treated as eligible and in case, anyone has not studied the said Subjects in any of the year or in any of the Semester, the said candidate be treated as ineligible.

11. The petitioners are aggrieved against this letter dated 03.04.2023 (Annexure P-11) to contend that the qualifications mentioned in the Advertisement have been changed to the liking of certain candidates, claiming that the Rules of selection process have been changed during the selection process, which is impermissible after the start of the said selection process, hence, the candidates being made



eligible as per the letter dated 03.04.2023 (Annexure P-11) are liable to be ousted from the zone of consideration.

12. After notice of motion, the respondents have filed the reply, wherein, the respondents have submitted that the selection is being made on the basis of the rules governing the service coupled with the qualification prescribed in the Advertisement and there is no change in the qualification mentioned as being alleged, rather only clarification has been issued, which is in consonance as per the minimum qualification prescribed to be eligible as mentioned in the advertisement.

13. I have heard learned counsel for the parties and have gone through the record with their able assistance.

14. From the facts, which have been mentioned here-in-before, under the 2021 Rules, a Bachelors Degree is the minimum qualification required for appointment as Constable. Under 2021 Rules The Director General of Police has been given power to prescribe specific Discipline/Stream/ Specialization as requirements for selection in any particular domain as Constable, in case the same is deemed necessary by the said authority. It may be seen that the qualification, which has been mentioned in the Advertisement, also prescribes a Bachelors Degree as the minimum qualification required for the purpose of consideration, however, in order to be selected in a particular domain of work as Constable certain subjects have been prescribed against each domain, which a candidate is required to have studied during the course of his/her



Bachelors Degree or Masters Degree for the purpose of being considered for appointment in the requisite domain of work as Constable.

15. It may be noticed that for Information Technology Domain, the Bachelor Degree should be in the field of Compute Science or Electronics or other fields as mentioned in the Advertisement itself. Similarly, for the domain of Community, Victim Support and Counseling Services, the Bachelors/Masters Degree should be in a particular field of Psychology/Sociology and Social Work.

16. It may be noticed that under Clause-7.4 of the Advertisement, the prescribed minimum qualification is a Bachelors Degree only. The said Clause further prescribes certain specific fields in which a candidate should have obtained his/her Bachelors Degree for being considered against a particular domain of work as Constable. As there was a possibility of Bachelors Degree in Arts not being granted in a specific field by Institutions/Universities the same was clarified by the competent authority vide letter dated 03.04.2023 (Annexure P-11) that in case, a candidate has studied the requisite subjects as mentioned for consideration in a particular domain of work as Constable in the entire academic course of obtaining the said Bachelors Degree in Arts, such candidates will suffice the requirement of 2021 Rules/Advertisement in question.

17. The argument, which has been raised by the learned counsel for the petitioners is, that in order to be considered eligible a candidate



should have possessed a specific Bachelors Degree in Psychology/ Sociology and Social Work.

18. It may be noticed that the qualifications, which are prescribed upon 2021 Rules are to be made the basis to adjudge the eligibility of a candidate. As per 2021 Rules, the candidate with the Graduation is eligible and the Director General of Police has only been given powers to prescribe certain specific Discipline/Stream/ Specialization, which the said authority deems fit for selection to the post of Constable in a particular domain. From conjoint reading of 2021 Rules governing the service coupled with the Advertisement, it is only to be seen that a candidate having a Graduation, having studied particular subjects as prescribed by the Director General of Police needs to be treated as eligible candidate. Even if, while giving the qualifications in the advertisement, the same exceeds the basic needed qualifications under the rules, the 2021 Rules will have precedence over the qualifications mentioned in the advertisement.

19. Not only this, the intent of the authority i.e. Director General of Police as to what he meant while prescribing the qualifications qua certain subjects such as Psychology/Sociology and Social Sciences is to be read with the basic qualification required to be eligible for the post in question. The conjoint reading of the qualifications mentioned in the 2021 Rules and the prescription of certain subjects to be eligible in certain domains of the post of Constable, the logical conclusion, as given in the



impugned letter dated 03.04.2023 (Annexure P-11) is perfectly valid and legal. The said conclusion has been arrived at by taking into consideration that in almost all the Institutions/Universities, there is no specific Degree of Graduation in Psychology/Sociology and Social Sciences is awarded. Though, while undergoing the Graduation in Arts a candidate has the option to undergo the study qua the said subjects. That is why, the authority i.e. Director General of Police has clarified his intent keeping in view the powers given to him under 2021 Rules.

20. Further, Rules cannot be interpreted in a manner that it nullifies the actual 2021 Rules itself. In case, the argument of the petitioners that Graduation in Psychology/Sociology and Social Sciences is needed then 2021 Rules, which only prescribed a Bachelors Degree to be qualified stands overruled. No interpretation to a rule can be given so as to nullify the basic rule itself and, therefore, the argument that the Bachelors Degree means Bachelors in Psychology/Sociology and Social Sciences, which is must to be eligible, cannot be accepted.

21. Further, once the authority to prescribe the Discipline/Stream/Specialization is with the Director General of Police, who has merely vide letter dated 03.04.2023 (Annexure P-11), issued a clarification qua the advertisement so that such eligible candidates with Bachelors Degree in Arts may not suffer any prejudice on account of misinterpretation of the Clauses of the Advertisement despite being eligible under 2021 Rules, the same clarification being materially in



consonance with the 2021 Rules governing the service, the same cannot be termed as arbitrary or illegal. It is not a case that the qualifications have been changed by the letter dated 03.04.2023 (Annexure P-11). The said letter only clarifies the intended stand of the department qua the requirement of specialization as has been mentioned in the advertisement. For the post of Community and Victim Support and Counseling Services, a candidate having Bachelors Degree in Arts, wherein, he/she studied the Subjects of Psychology/Sociology and Social Work throughout the academic study during their Bachelors Degree have only been clarified as eligible for grant of consideration.

22. The argument of learned counsel for the petitioners that there has to be a Bachelors Degree in Psychology/Sociology and Social Work for grant of consideration to the candidates and for treating the candidates, who have studied the particular subject throughout their academic study during the course of their Bachelors degree as ineligible for grant of consideration for the purpose of appointment, cannot be accepted on account of the fact that there has to be a harmonious reading of the rules governing the service along with the requirement of any specialization which may be prescribed by Director General of Police under his powers as envisaged under the 2021 Rules. In the event of possibility of any misinterpretation of the advertisement, the issuance of clarification as to how a particular specialization which has been made as requirement has to be assessed was well within the powers of the Director



General of Police under 2021 Rules and the petitioners cannot be allowed to interpret the advertisement to the detriment of other candidates, who are otherwise perfectly eligible under the 2021 Rules governing the service. In the light of the same, the clarification dated 03.04.2023 (Annexure P-11) is perfectly valid and legal and does not amount to change of any prescribed qualification or change of rules of selection process in any manner. It may be noticed that the for the purpose of being appointed as Constable in the domain of Information Technology, which deals with Computers, a Bachelors Degree, which is available in various fields of Computer Science, Electronic, Instrumentation, Communication, IT, Computer Application etc. has been made the requirement, therefore, requiring a candidate to have a specific Bachelors Degree in the said fields, is perfectly valid as such Degrees are specifically being issued by Educational Institutions, whereas it may be noticed that qua subjects of Humanities/Arts a Bachelors Degree is not given in any particular subject and students only have the option to study particular subjects of choice during their course of study and at the time of Post Graduation the students who have studied the particular subject in which he/she seeks to do Post Graduation while passing the Graduation Degree are allowed/ given preference for doing Post Graduation in the said field. Therefore, as no Degree in Bachelors in Psychology/Sociology and Social Work is being imparted and only the Degree of Arts is being given, it is to mean that the candidates, who have the Degree in Arts but have studied the



subjects of Psychology/Sociology and Social Work throughout their academic study while obtaining the Bachelors Degree, are to be considered eligible and the same is born out from a logical construction of the rules governing the service as well as the conditions mentioned in the Advertisement and the letter dated 03.04.2023 (Annexure P-11) in the said light is only a clarification to the said effect and nothing more. Therefore, the argument of learned counsel for the petitioners that the qualifications mentioned for recruitment in the Advertisement should be interpreted in a manner that it is made incumbent upon a candidate to have a Bachelors Degree in Psychology/Sociology and Social Work for grant of consideration is not sustainable.

23. Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 7602 of 2023 titled as ***Ankita Thakur and others Vs. The H.P. Staff Selection Commission & Others***, decided on 09.11.2023, as per which, in case of any change in criteria after the publication of job notification and before the start of selection process, a corrigendum is to be issued for updating the said criteria and to invite application on the basis of the revised criteria for ensuring fairness for all. The said judgment is not applicable in the facts and circumstances of the present case as none of the petitioner has been declared ineligible to participate in the selection process. All the petitioners have participated in the selection process. The efforts of the petitioners is only to oust eligible candidates from the zone



of consideration and to eliminate their competition. It may also be noticed that no one has raised any grievance that keeping in view the letter dated 03.04.2023 (Annexure P-11), the said candidate has gained eligibility, which was not with him/her prior to the issuance of the said letter. As no candidate has approached this Court with the grievance that he/she could not apply keeping in view the Clause relating to qualification in the advertisement, which was only later on clarified on 03.04.2023, it cannot be said that the same has caused prejudice to any deserving aspirant. In the absence of any such grievance, the said grievance cannot be raised by the petitioners, who have already competed as eligible candidates.

24. Learned counsel for the petitioners has further argued that the qualifications mentioned in the advertisement have been relaxed by the letter dated 03.04.2023 (Annexure P-11) and has placed reliance upon the judgment of the Co-ordinate Bench of this Court passed in CWP No. 18522 of 2023 titled as *Amandeep Sagar and others Vs. State of Punjab and others*, decided on 30.01.2024 and other connected matter in order to contend that the same is not permissible.

25. At the cost of repetition as already been observed by this Court here-in-before, in the light of facts of the present case, it is held that no relaxation has been granted vide letter dated 03.04.2023 (Annexure P-11). Only a clarification has been issued keeping in view the prescribed qualification in the advertisement as well as in 2021 Rules, as to how the same will be assessed. The argument of learned counsel for the



petitioners that ineligible candidates have been made eligible by the letter dated 03.04.2023 is not at all correct and has already been rejected, therefore, once it has already been held that there is no relaxation given to any candidate as per the letter dated 03.04.2023 and the same is only a clarificatory letter, the judgment in *Amandeep Sagar and others (supra)* is not at all applicable in the facts and circumstances of the present case.

26. Learned counsel for the petitioners further submits that as per the advertisement, a candidate is required to have a Degree in the subjects of Psychology/Sociology and Social Work and the Co-ordinate Bench of this Court while passing order in CWP No. 8677 of 2017 titled as *Shivam Sharma Vs. Union of India and another*, decided on 24.01.2024 has held that the advertisement should be given a literal interpretation and in accordance of which there has to be a Bachelors Degree in Psychology/Sociology and Social Work to be eligible to compete. A perusal of the said judgment will reveal that the facts of the said case are entirely different from that of the present case. In the said case, a candidate who had merely studied a subject in which specialization was sought for only one semester, was seeking consideration, whereas in the present case, even as per the clarification, a candidate in order to be considered as eligible having essential qualification is required to have studied the requisite subject in which specialization is being sought throughout the course of Bachelors Degree i.e. in all the semesters/years. Learned



counsel for the petitioners is trying to read one word from the judgment in without appreciating the factual aspects, which cannot be ignored.

27. Further, in the present case, even in the advertisement only a Bachelors Degree has been made as the minimum requirement for being considered as eligible and the Director General of Police only had power to prescribe a specialization for such Bachelors Degree, and, therefore, issuance of any clarification as to how the same is to be assessed was well within his power.

28. It is further settled principle of law that where two interpretations are being projected for a particular clause, the interpretation which is being given by the employer has to be given preference unless contrary to law over the other view in case the same is logically made out by simple reading of the disputed clause.

29. In the present case, the view given by the Director General of Police in letter dated 03.04.2023 (Annexure P-11) is made out keeping in view the qualifications mentioned in 2021 rules as well as in the advertisement, hence, the same has to be given effect.

30. Learned counsel for the petitioners have also placed reliance upon the judgment of the Madhya Pradesh High Court in Writ Petition No. 4316 of 2017 titled as *Dr. Brijesh Yadav and others Vs. The State of M.P. and others*, decided on 01.05.2017 and by placing reliance upon paragraph 57 of the same, it is being contended that use of solidus, virgule, slash, oblique between the words 'and/or' can be used conjointly



as well as separately when required in consonance with the object of the Regulations, hence, in the present case, the qualifications mentioned in the advertisement have to be read that there has to be a Degree in Psychology/Sociology and Social Work.

31. It may be noticed that the said argument has been raised on the basis of the qualifications mentioned in the advertisement and by totally ignoring the qualifications mentioned in the 2021 Rules governing the service which will have preference over the qualifications mentioned in the advertisement. It is a settled principle of law that in case, there is any deviation in the qualifications mentioned in the advertisement as compared to the qualifications mentioned in the rules, the qualifications mentioned in the rules have to be given preference over the qualifications mentioned in the advertisement and as per the qualifications mentioned in 2021 Rules, qualifications mentioned in advertisement have only been clarified and that too by the authority competent.

32. Further, it is a conceded position before this Court that as per the qualification mentioned in the advertisement, only a Bachelors Degree in any Stream is the minimum qualification required to be eligible for the post of Constable. Per-se the rules do not provide for any specialization and any requirement of the same is as such left to the discretion of the Director General of Police, which remains the competent authority to provide interpretation to the conditions imposed by him and, therefore, no



grievance can be made against the clarification issued by the Director General of Police himself vide letter dated 03.04.2023 (Annexure P-11).

33. Once, only a view has been clarified as to what was prescribed in the advertisement by the Director General of Police in his letter dated 03.04.2023 (Annexure P-11), the petitioners cannot raise any grievance and the judgment in *Dr. Brijesh Yadav’ case (supra)*, is not going to help the petitioners in any way to secure the relief as being prayed for.

34. No other argument has been raised.

35. In the light of observations recorded here-in-before and the settled principles of law along with rules governing the service, no ground is made out for any interference by this Court in the present petitions.

Dismissed.

May 18, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No