



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(203)

CWP-16152-1998 (O&M)
Date of Decision : 06.08.2024

Rajiv Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. A.S. Gill, Advocate for the petitioner.
Mr. T.P.S. Chawla, Senior Deputy Advocate General, Punjab.
Mr. Ravi Kapur, Advocate for respondents No. 2, 4 and 5.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the challenge is to the selection of respondent No. 6 to the post of Workshop Instructor (Machinist).
2. Learned counsel for the petitioner argues that the respondent No. 4-Mehar Chand, Polytechnic, Jalandhar is an Aided Institution receiving 95% grant-in-aid from the Government and had issued an Advertisement on 06.05.1998 (Annexure P-1) advertising the posts of Workshop Instructor (Machinist). The petitioner applied for the post presuming that he is eligible. As per the advertisement, along with the application form, the matriculation certificate, detail mark sheet of the matriculation, passing of the Senior Secondary Examination, the detail marks of the said examination, the Diploma Certificate from the State/Board in Mechanical Engineering as well



as the Certificate of the Central Institute of Handtools, Jalandhar along with the experience if any by the candidate was required.

3. The petitioner contends that whatever the requirements were there to be filled up so as to compete for the post in question were fulfilled by the petitioner. Learned counsel for the petitioner submits that though, the petitioner fulfilled the qualifications, he was not called for the interview and ultimately, respondent No. 6 has been selected by treating him the best suitable out of the 11 candidates, who had applied for the post in question. Learned counsel submits that ousting the petitioner from the zone of consideration by the respondents is arbitrary and illegal, hence, the selection of respondent No. 6 to the post of Workshop Instructor (Machinist) is liable to be set-aside.

4. Upon notice of motion, the respondents have filed the reply, wherein, they have mentioned that the selection which has been made to the post is upon merit of each candidate and has been done by a Selection Committee consisting of 09 Members. It has been further mentioned that the petitioner did not fulfill all the requisite of the Advertisement as, the knowledge of Punjabi upto Matric was essential and the petitioner did not attach any proof of having passed the Punjabi upto the Matric level, the petitioner was treated ineligible keeping in view the terms and conditions of the Advertisement.

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



6. It is a conceded position that as per the Advertisement, the following qualifications were prescribed to be eligible for the post in question.

“Workshop Instructor (Machanist) :

Qualifications :

(a) Matriculate or its equivalent with Mathematics, Physics and Chemistry.

(b) National Trade Certificate in the concerned trade.

OR

National Apprenticeship Certificate in the relevant trade.

OR

Apprenticeship Certificate in Industrial concern for a period not less than 3 years.

OR

Diploma in Mechanical Engineering

(c) Not less than 3 years experience excluding Training period for Central Training Institute trained and not less than 5 years experience excluding the training period for Non-central Training Institute trained.

Note :- (1) Knowledge of Punjabi upto Matric or its equivalent standard is essential for all the above said posts.”

7. A bare perusal of the above would show that apart from the technical qualifications required, as per the Note, the candidate should have knowledge of Punjabi upto Matric level, which was essential to be eligible for the post in question. The petitioner contends that he had attached the passing of the Punjabi Certificate upto Matric level which is being denied by the respondents in their reply.



8. As per the reply, the petitioner had only attached three certificates along with his resume and copy of the application filed by the petitioner has been attached as Annexure R-1 which does not include proof of passing of Punjabi upto Matric level. It is further on record that not only the petitioner but there were other candidates, who did not attach the passing of the Punjabi examination upto Matric level, whose claim was also rejected. Keeping in view the said fact, it cannot be said that the petitioner could have been treated eligible.

9. Even otherwise, the argument of learned counsel for the petitioner is that the stand of the respondents that the petitioner did not attach the matriculation certificate of passing Punjabi is incorrect and rather the same was attached, involves the disputed question of fact. As per the judgment of Hon'ble Supreme Court of India in Civil Appeal No. 2848 of 2021 titled as ***Shubhas Jain Vs. Rajeshwari Shivam and others***, decided on 20.07.2021, where the facts are disputed, the same should not be adjudicated in the writ jurisdiction and the parties should be relegated to the civil dispute before the civil Court. The relevant paragraph 26 of the said judgment is as under :-

“26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions of fact. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable.”



10. Keeping in view the fact that the selection was made about 25 years ago and respondent No. 6 is already working on the said post coupled with the fact that the selection was made by duly constituted Selection Committee by evaluating all the eligible candidates, no ground is made out for any interference by this Court, at this stage.

11. Dismissed.

12. Pending miscellaneous application, if any, also stands disposed of.

August 06, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No