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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4618-2019

Date of decision: 26.09.2024

MEENU KUMARI

...Petitioner(s)

VERSUS

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Vijay Pal, Advocate
for the petitioner.

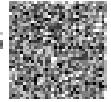
Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Divyansh Shukla, Advocate for
Mr. Hitesh Pandit, Advocate
for respondent No.2.

JASGURPREET SINGH PURI, J. (Oral)

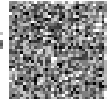
1. The present writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to allow the petitioner to participate in the selection process for the post of Accountant (M.C.) in SC category by calling her for the interview and also to select and appoint her to the aforesaid post in SC category with a further prayer to quash the decision of the respondents, whereby the petitioner was not called for interview.

2. While giving the brief facts of the present case, learned counsel for the petitioner submitted that the petitioner applied for the post of Accountant



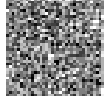
(M.C.) in pursuance of the advertisement issued by the respondent-Haryana Staff Selection Commission on 10.07.2015 (Annexure P-1). He further submitted that as per the aforesaid advertisement, the closing date for submission of online applications was 23.11.2015 and there were 7 posts of Accountant (M.C.) for the SC category under category No.18 and in pursuance thereof, the petitioner applied for the aforesaid post under SC category. He further submitted that the petitioner had taken the written examination and thereafter, she also subjected herself to scrutiny of documents, wherein she had shown all the documents to the Scrutiny Committee of the respondent-Commission. However, the petitioner was rendered ineligible and was not called for the interview but in view of the interim order passed in the present writ petition on 21.02.2019, it was directed that the petitioner shall be provisionally interviewed and her documents be scrutinized and thereafter, her result be kept in a sealed cover. He further submitted that consequent thereupon, the petitioner appeared for the interview and her result was kept in a sealed cover and this Court directed the learned State counsel to produce the result of the petitioner, which has been produced today in the Court in a sealed cover.

3. Learned counsel for the petitioner submitted that the controversy involved in the present case was that at the time when the petitioner had applied for the aforesaid post, she had attached her essential qualification certificate, which has been appended alongwith the present writ petition at page No.50 of the paper-book and which is a six months computer course of Basic Fundamentals, MS-Word, MS-Excel and MS-Powerpoint. The essential qualification as so stated under category No.18 was six months certificate



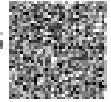
course in computer from a recognized Institution. He further submitted that the aforesaid Institute from where the petitioner did her six months computer course was not recognized but later on she did one more computer course of one year from a recognized Institute i.e. Haryana State Council for Child Welfare and certificate of which has been appended alongwith the present writ petition at page No.51 and she was enrolled in the aforesaid one year computer course from November, 2015 to October, 2016 and date of issuance of the aforesaid one year computer course certificate is 10.04.2017. He also submitted that the petitioner has been non-suited only on the ground that she was not eligible because of the condition so mentioned in the aforesaid advertisement but later on since she did a one year computer course as aforesaid, she may be considered for the aforesaid post of Accountant (M.C.).

4. In this regard, learned counsel for the petitioner referred to a decision taken by the respondent-Haryana Staff Selection Commission vide Annexure R-3/2 in the year 2018, whereby computer course certificate issued from the 16 enlisted Institutes have been considered to be valid for the purpose of aforesaid post and as per the aforesaid annexure, at serial No.7 it has been so stated that *Diploma/Computer Course from District Council for Child Welfare* will be considered to be a valid certificate and since the petitioner did her one year computer course from Haryana State Council for Child Welfare, which falls under the enlisted 16 Institutes at serial No.7 and therefore, the petitioner was entitled to have been considered having a valid computer certificate and fulfilling the qualifications as aforesaid.



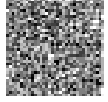
5. Learned counsel for the petitioner also submitted that even otherwise also, the petitioner prior to even filling of the application form has done her B.Com and M.Com in which there were subjects of computers and in this regard, he referred to pages No.48 and 49 of the writ petition which are the DMCs of M.Com of the petitioner, wherein she had subjects of Computer Applications in Business and also IT and E-Commerce in her M.Com course and since she has done her basic computer course in specific subject of computer in her M.Com course then she ought to have been rendered eligible on the basis of the aforesaid subjects which she has taken in her M.Com course, which she completed prior to filling up of the application form and before the cut off date and therefore, either way the petitioner was entitled to have been considered for the aforesaid post and would not have been rendered ineligible because of the aforesaid reasons.

6. On the other hand, Mr. Gaurav Jindal, Addl. A.G., Haryana while referring to the reply filed on behalf of the respondent-Haryana Staff Selection Commission submitted that the petitioner was not eligible at the time of filling up of the application form, for which the last date was 23.11.2015 as per the advertisement. He further submitted that so far as the six months computer course which has been referred to by the learned counsel for the petitioner, which has been attached at page No.50 of the writ petition is concerned, on the face of it, the same was not from a recognized Institute, which even the learned counsel for the petitioner has not disputed but the learned counsel for the petitioner has referred to another certificate of one year computer course which the petitioner had obtained after the cut off date because the aforesaid certificate



has been issued in the year 2017 and even if the aforesaid certificate falls in the category of enlisted Institutes at serial No.7 of Annexure R-3/2, the same could not have been considered because it was issued after the cut off date. In this regard he referred to the conditions of the advertisement (Annexure P-1) in which it has been specifically provided that likely causes of rejection of application would be, if applicant does not possess the requisite academic qualification on cut off date and apart from the above, there is another provision wherein in the advertisement it has been so provided that the printed copy of the application form with original certificates and photocopy of self attested certificates must be brought by the candidate at the time of interview/verification alongwith photo, identity proof i.e. Identity Card/Driving License/Passport/Voter Card/PAN Card/Aadhar Card etc. He further submitted that since the petitioner did not possess the essential qualification at the time of filling up of the application form, she was rightly rendered ineligible by the respondent-Haryana Staff Selection Commission.

7. Learned State counsel also submitted that as directed by this Court, the result of the petitioner has been brought in the Court today in a sealed cover, wherein in the result the total marks of the petitioner including interview have been mentioned. He further submitted that so far as the second argument raised by the learned counsel for the petitioner that in her M.Com course, the petitioner had studied various subjects of computer is concerned, the same cannot be substitute for the essential qualifications which have been so provided in the advertisement and it is only for the experts to see as to whether they are equivalent or not but on the face of it, the subjects which the petitioner have



studied are not equivalent to the essential qualification which has been so provided in the advertisement itself. In this regard he submitted that in fact the similar issue with regard to the same advertisement as that of the present case and similar qualification has already been decided by a Coordinate Bench of this Court in CWP-21728-2018, titled as Manoj Lamba and others versus Haryana Staff Selection Commission, decided on 02.06.2023, wherein it has been categorically observed that the Court would not become a substitute for an Expert Committee with regard to the subjects of computer undertaken in the M.Com course for the essential qualifications which are provided in the advertisement and therefore, the present writ petition is liable to be dismissed as being squarely covered in favour of the respondent-Haryana Staff Selection Commission in view of the aforesaid judgment in Manoj Lamba's case (supra).

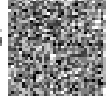
8. I have heard the learned counsels for the parties.

9. The essential qualifications which have been so provided in the advertisement dated 10.07.2015 (Annexure P-1) under category No.18 are reproduced as under:-

Essential Qualifications:-

- i) Bachelor of Commerce with 55% marks from a recognized University.
- ii) Six months certificate course in computer from a recognized institution; and
- iii) Hindi/Sanskrit up-to Matric standard or higher education.

10. The conditions contained in the aforesaid advertisement (Annexure P-1) at page No.24 and page No.26 are also reproduced as under:-

**Printed copy:**

“Printed copy of the application form with original certificates and photocopy of self attested certificates must be brought by the candidate at the time of interview/verification alongwith Photo, Identity Proof i.e. Identity Card/Driving License/Passport/Voter Card/Pan Card/Aadhar Card etc.”

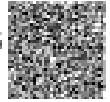
Likely causes of rejection of application:-

xxx-xxx-xxx-xxx

“Applicant does not possess the requisite academic qualification on cutoff date.”

xxx-xxx-xxx-xxx

11. The issue involved in the present case is that the petitioner while applying for the aforesaid post of Accountant (M.C.), for which the last date of submission of online applications was 23.11.2015 had attached a certificate of six months computer course, which has been appended at page No.50 of the present writ petition. However, it is not in dispute that the aforesaid six months computer course was not from a recognized institution and therefore, did not fulfill the condition of the advertisement but later on the petitioner had undertaken another computer course of one year, which has been appended at page No.51 of the present writ petition, which undoubtedly was a valid certificate because as per Annexure R-3/2, whereby the respondent-Commission had decided to confer legitimacy on various courses from various Institutes and the aforesaid certificate falls in the aforesaid category at serial No.7, regarding which also there is no dispute. However, the only controversy involved in the present case is as to whether the aforesaid one year computer course which the petitioner has undertaken after the cut off date can be considered for the

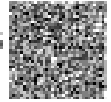


purpose of conferring eligibility upon the petitioner or not. As per the aforesaid conditions of the advertisement, it has been specifically provided that the applicant has to possess essential qualification prior to the filling of the application form but in the present case, the essential qualification of one year computer course has been undertaken by the petitioner after the cut off date, regarding which there is no dispute.

12. Hon'ble Supreme Court in **The State of Bihar and others versus Madhu Kant Ranjan and others, (2021) 17 SCC 141** observed as under:-

“11. As per the settled proposition of law, a candidate/applicant has to comply with all the conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority. Also, only those documents, which are submitted alongwith the application form, which are required to be submitted as per the advertisement have to be considered. Therefore, when the respondent No.1 - original writ petitioner did not produce the photocopy of the NCC 'B' certificate alongwith the original application as per the advertisement and the same was submitted after a period of three years from the cut-off date and that too after the physical test, he was not entitled to the additional five marks of the NCC 'B' certificate. In these circumstances, the Division Bench of the High Court has erred in directing the appellants to appoint the respondent No.1 - original writ petitioner on the post of Constable considering the select list dated 08.09.2007 and allotting five additional marks of NCC B' certificate.”

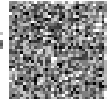
13. Hon'ble Supreme Court in **Rakesh Kumar Sharma versus Govt. of NCT of Delhi and others, 2013(11) SCC 58** observed as under:-



“16. In the instant case, the appellant did not possess the requisite qualification on the last date of submission of the application though he applied representing that he possessed the same. The letter of offer of appointment was issued to him which was provisional and conditional subject to the verification of educational qualification, i.e., eligibility, character verification etc. Clause 11 of the letter of offer of appointment dated 23.2.2009 made it clear that in case character is not certified or he did not possess the qualification, the services will be terminated. The legal proposition that emerges from the settled position of law as enumerated above is that the result of the examination does not relate back to the date of examination. A person would possess qualification only on the date of declaration of the result. Thus, in view of the above, no exception can be taken to the judgment of the High Court.

17. It also needs to be noted that like the present appellant there could be large number of candidates who were not eligible as per the requirement of rules/advertisement since they did not possess the required eligibility on the last date of submission of the application forms. Granting any benefit to the appellant would be violative of the doctrine of equality, a backbone of the fundamental rights under our Constitution. A large number of such candidates may not have applied considering themselves to be ineligible adhering to the statutory rules and terms of the advertisement.

There is no obligation on the court to protect an illegal appointment. Extraordinary power of the court should be used only in an appropriate case to advance the cause of justice and not to defeat the rights of others or create arbitrariness. Usurpation of a post by an ineligible

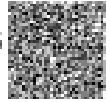


candidate in any circumstance is impermissible. The process of verification and notice of termination in the instant case followed within a very short proximity of the appointment and was not delayed at all so as to even remotely give rise to an expectancy of continuance.

The appeal is devoid of any merit and does not present special features warranting any interference by this Court. The appeal is accordingly dismissed.”

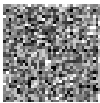
14. In view of the aforesaid position, so far as the first argument raised by the learned counsel for the petitioner that the certificate of one year computer course, which although was undertaken by the petitioner after the cut off date is to be considered as a valid certificate is concerned, the same deserves to be rejected because the certificate was obtained after the cut off date and cannot be considered for the purpose of eligibility. So far as the second argument raised by the learned counsel for the petitioner that as an alternate, the petitioner had studied computer subjects in her M.Com course and therefore, she may be considered as eligible is concerned, the same is unsustainable. A Coordinate Bench of this Court in **Manoj Lamba’s case (supra)** dealt with this issue in detail. Para No.9 of the aforesaid judgment is reproduced as under:-

“9. The argument raised by counsel appearing for petitioner No.5 that petitioner No.5 has studied Basic of Computers in 1st and 2nd semesters and also studied subjects of Computer Application to Business and E-Commerce in 3rd & 4 th semesters of her M.Com degree as one of the subjects and therefore, the same ought to have been taken into consideration, looks attractive, but equivalence of a qualification is not a matter which can be determined by this Court in exercise of its judicial review.



*Determination of equivalence of any qualification is domain of experts and therefore, this Court restrains itself from going into the issue whether the subjects studied by petitioners as mentioned above would be equivalent to six months course in computer as required under the advertisement. The Hon'ble Supreme Court in the case of **U.P.S.C. through its Chairman v. Rahul Singh, 2018 AIR (Supreme Court) 2861** has held that, "Judges are not and cannot be experts in all fields and, therefore, they must exercise great restraint and should not overstep their jurisdiction to upset the opinion of the experts." It would be appropriate to refer to the judgments as rendered by the Supreme Court to the effect that the courts should refrain from giving their own opinion over and above the opinion given by an Expert Committee. The judgements of the Supreme Court in this regard are **Kanpur University through Vice Chancellor and others v. Samir Gupta and others (1983) 4 SCC 309**, **Rishal and others v. Rajasthan Public Service Commission and others (2018) 8 SCC 81**, **Uttar Pradesh Public Service Commission, through its Chairman and another v. Rahul Singh and another (2018) 7 SCC 254** and **Sarita Meena v. State of Rajasthan 2021 (1) RLW 650**. The Division Bench of Delhi High Court in **National Board Of Examination v. Association Of Md Physicians, 2022 AIR (Delhi) 246**, has also recently held that Judges are not and cannot be experts in all fields, and the opinion of experts cannot be supplanted by a Court overstepping its jurisdiction."*

15. It is a settled law that the Court's opinion would not become a substitute for an expert opinion with regard to comparing subjects etc. Even otherwise also in view of the aforesaid judgment passed by a Coordinate Bench



of this Court, the petitioner would not be entitled for getting any benefit of her undertaking any subject in her M.Com course because the essential eligibility qualification of the present advertisement was having six months certificate course in computer from a recognized institution, on which this Court cannot make any observation as to whether it can be seen as a substitute for the aforesaid essential eligibility qualification. Therefore, the second argument raised by the learned counsel for the petitioner is also liable to be rejected.

16. This Court had also called for the result of the petitioner in a sealed cover, which has been produced by the learned State counsel in the Court today and the same has been opened in which the total marks obtained by the petitioner is stated to be 123, whereas as per the learned State counsel, the last selected candidate secured 114 marks. Therefore, clearly the petitioner got more marks than the last selected candidate but on the other hand, the petitioner was not eligible for the aforesaid post for not having essential eligibility qualifications as laid down in the advertisement and therefore, the mere fact that the petitioner secured more marks than the last selected candidate would not be of any help to the petitioner.

17. In view of the aforesaid facts and circumstances of the present case, the present writ petition being devoid of any merit, is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

26.09.2024
Chetan Thakur

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