

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109)

LPA-667-2024 (O&M)
Decided on : 12.03.2024

Renu Devi

.....Appellant(s)

Versus

State of Haryana & another

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr.Mukesh Yadav, Advocate for the appellant.

G.S. Sandhawalia, ACJ (Oral)

CM-1628-LPA-2024

1. Application for condoning the delay of 1 day in filing the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant. Delay of 1 day in filing the present appeal is hereby condoned.

2. CM stands disposed of.

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3. Allowed, as prayed for.

4. CM stands disposed of.

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5. Consideration in the present appeal is to the judgment dated 20.01.2024 passed by the Learned Single Judge in CWP-1261-2024 whereby the writ petitioner's claim for consideration to the post of Computer Instructor regarding advertisement No.12/2019 under the BCB category has been rejected.

6. The Learned Single Judge noticed that while applying for the said post, the writ petitioner had uploaded 5th semester certificate of diploma dated 08.04.2010 along with her form, photocopy of which is on record as Annexure P-2 herein along with the typed copy. The said diploma in Computer Engineering consisted of six semesters and therefore, she was required to produce the 6th semester certificate prior to the closing date which is 20.08.2019. At the time of scrutiny of documents, she produced another Diploma in Computer Science Engineering from a private

University, i.e. Calorx Teachers University based in Gujarat dated 19.09.2013 (Annexure P-5). The same having not been accepted by the respondents, Learned Single Judge found that since in the application form, she never claimed that she had Diploma from the private University as she could never produce the Diploma from the Haryana State Board of Technical Education which was the requisite requirement. The plea of inadvertent mistake that she had filled the form from a Cyber Café was rejected. The writ petitioner thus not having a three year Diploma prior to the closing date was another ground for dismissal of the writ petition.

7. While placing reliance upon the advertisement, it was held that if the candidate does not fulfill any of the eligibility conditions or that the information furnished was found to be false or incorrect, her candidature was liable to be cancelled. Reliance upon the judgment of the Apex Court in **Dolly Chhanda Vs. Chairman, JEE & others, 2005 (9) SCC 779** was accordingly rejected on the ground that the basic eligibility/qualification was to be possessed on the last date of submission of the application form and the writ petitioner wanted to submit altogether a new Diploma from a private University which was never appended at the time of applying to the post and to consider the same was accordingly rejected.

8. Counsel for the appellant has vehemently submitted that having the requisite qualification, the same should have been considered.

9. We are of the considered opinion that the said argument is not liable to be accepted. It is settled principle that the appellant was bound by the terms of the advertisement which specifically mentioned as per Clause 3.1 that the scanned copy of the essential qualifications were to be uploaded and the Diploma certificate was one of the documents which had to be placed on record along with the application form. Clause 3.2 provides that only those documents which were uploaded by the candidate were to be considered and if there is any variation, the candidature was liable to be cancelled. Said clause reads as under:

“3.2 Scrutiny of Documents : - Only those document which are uploaded by the candidates shall be considered. If there is any variation in the document uploaded and produced at the time of scrutiny candidature shall be liable to be cancelled. If any application is found without uploading requisite supporting

documents and other relevant information, the candidate himself/herself shall be responsible for that and his/her candidature would be liable to be cancelled due to lack of proper or correct documents/information.”

10. Thus, a fallback at this stage on another certificate is unwarranted for. The consideration sought is for the post of Computer Instructor and therefore, the claim that the form was filled up in Cyber Café by an employee of the Cyber Café is not liable to be accepted. In case the writ petitioner already possessed the certificate, there was no necessity of joining another course of same nature or its equivalence since she apparently passed out in the year 2013 from the University at Gujarat and if she had appeared in her 5th semester in December, 2009 and only 6 months was left for her to do another semester would only go on to show that the said certificate was not liable to be accepted.

11. The proposition of law that the advertisement has a binding force and would govern the parties stands established beyond a cavil of doubt. Six Full Benches of this Court in **Amardeep Singh Sahota vs. State of Punjab 1993 (2) PLR 212**, **Raj Singh vs. Maharishi Dayanand University 1994(2) S.C.T. 766**, **Sachin Gaur v. Punjabi University 1996(1) S.C.T. 837**, **Rahul Prabhakar v. Punjab Technical University, Jalandhar 1997(3) S.C.T. 526**, **Indu Gupta v. Director of Sports, Punjab 1999(4) S.C.T. 113** and **Rupinder Singh and others v. The Punjab State Board of Technical Education & Industrial Training, Chandigarh and others 2001(2) S.C.T. 726** have held to that effect. The relevant observations made in Rahul Prabhakar's case (supra) read as under:-

"7. A Full Bench of this Court in **Amardeep Singh Sahota v. State of Punjab**, (1993) 4 SLR 673 : 1993(4) SCT 328 (P&H) (FB) had to consider the scope and binding force of the provisions contained in the prospectus. The Bench took the view that the prospectus issued for admission to a course, has the force of law and it was not open to alteration. In **Raj Singh v. Maharshi Dayanand University**, 1994 (4) RSJ 289 : 1994(2) SCT 766 (P&H) (FB) another Full Bench of this Court took the view that a candidate will have to be taken to be bound by the information supplied in the admission form and

cannot be allowed to take a stand that suits him at a given time. The Full Bench approved the view expressed in earlier Full Bench that eligibility for admission to a Course has to be seen according to the prospectus issued before the Entrance Examination and that the admission has to be made on the basis of instructions given in the prospectus, having the force of law. Again Full Bench of this Court in Sachin Gaur v. Punjabi University, 1996 (1) RSJ 1 : 1996 (1) SCT 837 (P&H) (FB) took the view that there has to be a cut off date provided for admission and the same cannot be changed afterwards. These views expressed by earlier Full Benches have been followed in CWP No. 6756 of 1996 by the three of us constituting another Full Bench. Thus, it is settled law that the provisions contained in the information brochure for the Common Entrance Test 1997 have the force of law and have to be strictly complied with. No modification can be made by the Court in exercise of powers under Article 226 of the Constitution of India."

12. The eligibility thus has to be considered by the Board on the cut-off date. The appellant did not even had the eligibility as she herself had appended the 5th semester certificate and not having passed out and therefore, she was not even eligible to sit in the examination.
13. Resultantly, in view of the above discussion, the present appeal is hereby dismissed in limine.

(G.S. SANDHAWALIA)

ACTING CHIEF JUSTICE

March 12th, 2024

Sailesh

(LAPITA BANERJI)

JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No