

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(108)

CWP-8210-2024

Date of Decision : April 15, 2024

Rahul Hans and another**.. Petitioners****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Gourave Bhayya Gilhotra, Advocate and
Mr. Hitesh Verma, Advocate, for the petitioners.

Mr. Harish Nain, Assistant Advocate General, Haryana.

Mr. Kanwal Goyal, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 21.03.2024 (Annexure P-1 and P-2) by which, the claim of the petitioners to claim eligibility to compete for the post of Deputy Director of Agriculture and equivalent (Administrative Cadre) Group A as advertised by the respondents vide Advertisement No. 13 of 2023 dated 18.02.2023 (Annexure P-8), has been rejected.

2. It may be noticed that Haryana Public Service Commission issued an advertisement dated 18.02.2023 (Annexure P-8) inviting applications for recruitment against 8 posts of Deputy Director of Agriculture and equivalent (Administrative Cadre) (Group A) in the Agriculture and Farmers Welfare Department, Haryana. As per the essential qualification mentioned in the advertisement, the candidates should be B.Sc (Hons.) and 2nd class M.Sc in Agriculture from a recognized University.

Apart from this, the candidates intended to compete for the post in question should have 5 years practical experience in Agriculture Research or Extension or both and that too after acquiring the minimum basis qualification prescribed. The petitioners applied for the said post as advertised by the respondents.

3. Thereafter, the petitioners competed for the post in question and appeared in the written examination and cleared the same. Thereafter in the scrutiny, the petitioners were being declared ineligible on the ground that the experience which the petitioners have submitted to support their claim is not in consonance with the requirement as mentioned in the advertisement (Annexure P-8).

4. Feeling aggrieved against the said action, the petitioners approached this Court by filing CWP No.5507 of 2024 and the said writ petition was disposed of with a direction to decide the representation which the petitioners filed so as to claim the eligibility.

5. Keeping in view the directions given by this Court to decide the representation, the respondents have passed the impugned order dated 21.03.2024 (Annexures P-1 and P-2) by which, the petitioners have been declared ineligible for the said post.

6. Learned counsel for the petitioners argues that the petitioners are fully eligible for the post in question as the petitioners were working as Agriculture Officers and Manager Agriculture in a Bank and were discharging the duties, which will be covered within the requirement of five years practical experience in extension (experience certificate is annexed as Annexure P-11). Learned counsel for the petitioners submits that the said experience have wrongly been excluded by the respondents so as to oust the petitioners from the zone of consideration, which act of the respondents is

totally arbitrary and illegal.

7. Notice of motion.

8. Mr. Kanwal Goyal, Advocate, has put in appearance on behalf of respondent No.2-Commission and submits that before deciding the representation of the petitioners by which they were claiming eligibility for the said post, the claim being raised by the petitioners was put before the expert for the opinion twice as to whether, keeping in view the claim raised by the petitioners qua the experience, the petitioners are eligible or not and on both the occasions, the opinion of the expert is that the petitioners do not fulfill the requisite of the advertisement dated 18.02.2023 (Annexure P-8) as the experience gained by the petitioners, on the basis of which the eligibility is being claimed, does not qualify them in the field of Agriculture Research or Extension hence, once the expert on the subject has come to the conclusion that the petitioners are not eligible for the post in question, the claim has been rejected by passing appropriate speaking order.

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

10. It may be noticed that the employer is best suited person to select the person. The prescription of qualification required for a particular post is also within the domain of the employer. In case, any dispute occurs with regard to the eligibility of the candidate, the opinion of the employer will have a preference over the opinion given by the prospective candidate.

11. Further, this Court does not hold a technical background so as to opine whether, the experience certificate submitted by the petitioners is within four corners of the essential qualification as prescribed in the advertisement or not. The respondent-Commission has taken a decision qua the eligibility of the petitioner after obtaining the opinion of an expert. The

expert, keeping in view the experience obtained by the petitioners while working in a Bank, has come to the conclusion that the said experience is not covered under the definition of Agriculture Research or the Extension, which is essential for qua the post in question. Once an expert has given an opinion, this Court will not sit over as an Appellate Authority over the opinion of the expert so as to arrive at a different decision.

12. As per the settled principle of law, the decision given by the expert has to be maintained and given due weightage while passing order qua the eligibility being claimed on the basis of certain documents/experience certificate. In the present case, the claim of the petitioners has been considered by the expert and found that they are not eligible and on the basis of said opinion, respondents have decided the claim of the petitioner while passing speaking order on their representation hence, this Court will not interfere in the decision of the Commission, which is based upon expert's advice.

13. At this stage, learned counsel for the petitioners submits that the expert is from the respondent-Department only hence, the said opinion should not be given due weightage.

14. It may be merely noticed that even if expert who gave advice/opinion is from the respondent-Department does not mean that he does not have the knowledge or the authority to given opinion on the issue concerned. Once the Department has sought opinion from an expert, even if the said expert belongs to the respondent-Department, the opinion rendered by the expert carries weight and cannot be dislodge unless and until, it is proved that the said opinion is mala fide or biased in any manner.

15. In the present case, no such averment has been made and no document has been brought to the notice of this Court that the petitioners

are intentionally being ousted by giving a biased opinion by the expert.

16. No ground is made out for any interference by this Court in the present case.

17. Dismissed.

April 15, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes