

CWP-10636-2016

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

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CWP-10636-2016 (O&M)
Date of Decision :22.07.2024

Gurbinder Kaur**...Petitioner**

Versus

State of Punjab and others**....Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Gaurav Sharma, Advocate & Mr. Sansar Kundu, Advocate
for the petitioner.

Mr. Arun Gupta, DAG, Punjab.

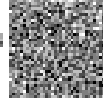
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Harsimran Singh Sethi, J. (Oral)

In the present petition, grievance of the petitioner is that the petitioner competed for the post of teacher as advertised by the respondents in the year 2009. As per the advertisement, a candidate having post graduate degree along with B.T. or B.Ed. in the concerned subject was eligible to compete for the said post. As per the selection criteria, a candidate having higher qualification of M. Phil or Ph.D was to be given weightage of 06 and 10 marks respectively.

Petitioner competed for the said post and also claimed 06 marks for having M. Phil degree, which degree of the petitioner was granted by Vinayaka Missions University, Tamil Nadu.

After granting 06 marks weightage for having M.Phil degree, the petitioner was declared successful and ultimately appointed in the year

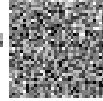
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2011, which service was regularized in the year 2014.

Thereafter, the respondents issued a show cause notice to the petitioner on 07.01.2016 (Annexure P/4) on the ground that M. Phil qualification for which, the petitioner had been given weightage of 06 marks cannot be treated valid as the said qualification has not been recognized by UGC. The petitioner filed the reply to the said show cause notice and before any action could be taken, the petitioner filed the present writ petition wherein, notice of motion was issued and the respondents were restrained from passing any order against the petitioner on the basis of the said show cause notice.

Learned counsel for the petitioner argues that even if, it is assumed for the sake of arguments that the qualification of M. Phil for which the petitioner was given weightage 06 marks has not been recognized by the UGC, even then also, the said qualification was not essential qualification to compete for the post in question hence, the respondents could have only reduced those six marks and, thereafter, re-calculated the merit of the petitioner and even if, the six marks are reduced from the total score of the petitioner, keeping in view the merit obtained by the last selected candidate, the petitioner still remains in the zone of selection/appointment hence, no action could have been taken by the respondents.

Upon notice of motion, the respondents have filed reply wherein, they have not denied the fact that in case, six marks which was given to the petitioner for having degree of M.Phil are reduced from the merit of the petitioner, the petitioner will still remain within the selection



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zone.

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

Once, the M. Phil degree which is in dispute was not the essential qualification required to compete for the post in question and the candidate having M. Phil degree was only given weightage of 06 marks even if, the said M. Phil degree was not recognized by the UGC, the only action could have taken by the respondents is to withdraw those six marks and recalculate the merit of the petitioner. Once, even after withdrawing those six marks, the petitioner still remains in the merit qua the post in question, the respondents could have only changed the merit position of the petitioner and could not have cancelled the selection and consequent appointment of the petitioner.

Keeping in view the facts and circumstances recorded hereinbefore, present petition is disposed of with the direction to the respondents that in case, after withdrawing the six marks which were given to the petitioner for having M. Phil degree, which was not recognized by the UGC, the petitioner remains within the selection zone keeping in view the merit position of the petitioner for the post in question, the respondents will only change the merit position of the petitioner and not withdraw the selection and consequent appointment of the petitioner.

Civil miscellaneous application pending, if any, is also disposed of.

July 22, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/Nor