

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

CWP-14435-2024 (O&M)
Date of decision : 05.06.2024

GANSHYAM

...Petitioner

Versus

CHAIRMAN, HARYANA STATE LEGAL SERVICES AUTHORITY,
PANCHKULA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ganshyam, Petitioner-in-person.

HARSH BUNGER, J. [ORAL]

Prayer in the present petition filed under Article 226 of the Constitution of India, is *inter alia*, for issuance of writ in the nature of *certiorari* for quashing/setting aside the order dated 16.05.2024 passed by District and Sessions Judge-cum-Chairman, District Legal Services Authority, Jind; rejecting the candidature of the petitioner and thereby preventing him from appearing in the interview for the post of 'Child Counsellor/General Counsellors' in pursuance to the advertisement issued by the Haryana State Legal Services Authority, Panchkula, whereby applications were invited for constituting a panel of Counsellors (03 each in 22 Districts i.e. 01 Child Counsellor and 02 General Counsellors) in each District Mediation and Conciliation Centre in the State of Haryana.

A further prayer has been made for issuance of a writ of *mandamus* directing the respondents to interview the petitioner for the afore-said post.

2. Briefly, the petitioner is a practicing Advocate in District Court, Jind (Haryana) since 14.09.2021. Petitioner claims that he has an experience of about nine months in the field of Matrimonial Counselling. It transpires that the Haryana State Legal Services Authority, Panchkula issued an advertisement (Annexure P-1), whereby, applications were invited for constituting a panel of counsellors (03 each in 22 Districts i.e. 01 Child Counsellor and 02 General Counsellors) in each District Mediation and Conciliation Centre in the State of Haryana. As per the afore-said advertisement (Annexure P-1), the terms and conditions/qualification for empanelment of Counsellors, three in each District of Haryana, were stated as under :-

Sr. No.	Nomenclature of the posts	Qualification and Experience	Age	No. of Counsellors to be engaged	Honorarium
1.	Child Counsellor	Master's Degree in Sociology/ Social Work/ Psychology. (Preference shall be given to law graduates who have requisite experience of working with NGOs and in the field of Child and Matrimonial counseling	Not exceed the age of 62 years, subject to condition of upper age limit be relaxed by the Competent Authority in case of deserving candidate.	22	Rs.2,000/- per sitting (Subject to 30 sitting per month)
2.	General Counsellors			44	

WORK POFILE OF CHILD COUNSELLOR

The Child Counsellor would do counseling of children and parents in matters of custody including joint custody/shared parenting. The Child Counsellor would assess whether the parents will be able to co-operate and generally agree concerning important decisions affecting the welfare of the child. He/she would also assess whether each of the parents is willing and able to facilitate and encourage a close and continuing relationship between the child and the other parent. The Child Counsellor would also assess whether the parents are able to jointly design and implement a day to day care-plan that fosters stability. The Child Counsellors would also assess the child's existing relationship with each parent, siblings and other persons who may significantly affect the child's

welfare. He/she would also do counseling of children in cases/matters affecting the children.

WORK PROFILE OF GENERAL COUNSELLORS

The General Counsellors would do counseling in matrimonial disputes, matters relating to women and children, senior citizens etc. Many complaints are received from senior citizens on account of family disputes. The General Counsellors would help couples to understand the source of their conflicts and try to resolve them. They would help address and resolve the issues that couples may not realize are the core of their problems. They would analyze the behavioural patterns of couples and identify those who leads the conflict, in order to get resolved the disputes.

SELECTION CRITERIA

Selection shall be made on the basis of interview/interaction. Knowledge, experience and expertise in relevant filed shall be assessed during the course of interview/interaction. The State Authority shall reserve the right to shortlist the applications on the basis of the criteria fixed by the Authority.”

3. It is the case of the petitioner that he applied for the post of General Counsellor, however, his candidature was rejected, whereupon, he submitted a representation dated 15.05.2024 before the Office of District and Sessions Judge-cum-Chairman, District Legal Services Authority, Jind, which was also rejected vide order dated 16.05.2024. The operative part of the order *ibid* reads as under :-

“ORDER

Representation/application dated 15.05.2024 made by applicant Ganshyam S/o Sh.Bajrang r/o Bhiwani Road Bye Pass Budha Baba Basti, Jind was received in the office through email, in which the applicant requested for reconsideration of his candidature and similarly situated candidates for the post of Counsellors. He was telephonically called for hearing on 16.05.2024 and heard.

The applicant has applied for the post of General Counsellor. He possess the degree in M.Sc. Micro-Biology besides law degrees and he is practicing as an Advocate. However, as per advertisement for the posts of Counsellors, the candidate should possess Master’s degree in

Sociology/Social Work/Psychology and it has been provided that preference be given to Advocates. However, the applicant does not fulfill the basic criteria as he does not possess the Post Graduate Degree in Sociology/Social Work/Psychology and merely being an Advocate will not entitle him to apply for the said post and as such, his candidature has rightly been rejected. Accordingly, the application in hand is also ordered to be filed.”

4. In view of the afore-mentioned facts and circumstances, the petitioner has filed the instant Civil Writ Petition before this Court, for the relief/s, as noticed above.

5. Learned counsel for the petitioner submits that the petitioner is a practicing Advocate and he fulfills the criteria as mentioned in the advertisement (Annexure P-1). It is contended that as per the advertisement (Annexure P-1), preference is to be given to the 'Law Graduates', who have requisite experience in the field of Child and Matrimonial Counselling. It is further submitted that the petitioner has good experience in the field of Matrimonial Disputes Counselling as he had joined as a Counsellor/Legal Advisor/Legal Assistant for indoor training in Women Cell, District Police, Jind w.e.f. 26.08.2021 and performed as such till 25.05.2022. It is next submitted that although, the petitioner meets the requirements of the advertisement (Annexure P-1) and has also appeared for LL.M prior to the holding of interviews for the post of Counsellors, however, he was not allowed to appear for interview and even his representation dated 15.05.2024 has been wrongly rejected, vide impugned order dated 16.05.2024. It is contended that in the advertisement (Annexure P-1), it is nowhere mentioned that the lawyers would be excluded from consideration for the said post. It is also contended that the advertisement (Annexure P-1)

is pre-judicial as it excludes the lawyers from being considered for the said post(s), which has caused prejudice to the petitioner.

6. I have heard the petitioner (in person) and perused the paper-book with his able assistance.

7. During the course of hearing, a pointed query was raised to the petitioner as to whether he holds a Master's Degree in Sociology/Social work/Psychology; to which the response of the petitioner was in negative.

8. A perusal of the terms and conditions/qualifications for empanelment of counselors would manifest that the candidate should possess a Master's Degree in Sociology/Social work/Psychology. It is further provided in the Advertisement (Annexure P-1) that preference shall be given to Law Graduates, who have requisite experience of working with NGO's and in the field of Child and Matrimonial Counselling. Still further, the advertisement (Annexure P-1) clearly delineates the work profile of Child Counsellor as well as of General Counsellors and it is also clearly provided that the State Authority shall reserve the right to shortlist the applications on the basis of the criteria fixed by the authority.

9. Concededly, the petitioner does not possess the requisite qualification i.e. Master's Degree in Sociology/Social work/Psychology.

9.1 In *Pramod Kumar v. U.P. Secondary Education Services Commission, (2008) 7 SCC 153*, Hon'ble the Supreme Court observed that if the petitioner did not possess the requisite qualification to hold a post, he/she could not have any legal right to continue. Further, in *State of Gujarat v. Arvindkumar T. Tiwari, (2012) 9 SCC 545*, the Hon'ble Supreme Court held that a person who does not possess the requisite qualification cannot even apply for recruitment for the reason

that his appointment would be contrary to the statutory rules, and would therefore, be void in law.

9.2 It is well settled that lacking eligibility for the post cannot be cured at any stage and appointing such a person would amount to serious illegality and not mere irregularity and such a person cannot approach the court for any relief for the reason that he does not have a right which can be enforced through court.

10. Keeping in view the afore-said legal position, once the petitioner does not possess the requisite qualification for the advertised post, no relief can be granted to him.

11. I have also considered the contention of the petitioner that the advertisement (Annexure P-1) is pre-judicial as it excludes the lawyers from being considered for the said post(s), however, I do not find any merit in the same. In essence, the petitioner is seeking to question the qualification(s) prescribed in the advertisement (Annexure P-1) for the afore-said post of 'Child Counsellors/General Counsellors'. Apparently, advertisement (Annexure P-1) came to be published in the month of March, 2024, wherein the terms and conditions/qualification for empanelment of Counsellors were clearly stated. Had the petitioner been aggrieved against the terms and conditions/qualifications for empanelment of counsellors; he should have availed his legal remedies prior to applying for the afore-said advertised posts, which was not done by him. Petitioner was very well aware of the fact that he does not possess the requisite qualification i.e. Master's Degree in Sociology/Social work/Psychology and it appears that he applied for the said post only on account of he being a practicing Advocate and/or Law Graduate.

11.1 From a perusal of Annexure P-12, it is evident that the interviews for the afore-said post(s) were scheduled as under :-

Sr. No.	Date	No. of candidates to be called for interview	Timing	Place of interview
1	15.05.2024	Candidates from Alphabet “A to J”, who have applied for the post of General Counsellor) Candidates from Alphabet “A to J”, who have applied for the post of Child Counsellor.	12:00 noon onwards.	Conference Hall, District Courts, Jind.
2	16.05.2024	Candidates from Alphabet “K to M”, who have applied for the post of General Counsellor Candidates from Alphabet “K to M”, who have applied for the post of Child Counsellor.	12:00 noon onwards.	Conference Hall, District Courts, Jind.
3	17.05.2024	Candidates from Alphabet “N to R”, who have applied for the post of General Counsellor Candidates from Alphabet “N to R”, who have applied for the post of Child Counsellor.	12:00 noon onwards.	Conference Hall, District Courts, Jind.
4	18.05.2024	Candidates from Alphabet “S to Y”, who have applied for the post of General Counsellor Candidates from Alphabet “S to Y”, who have applied for the post of Child Counsellor.	12:00 noon onwards.	Conference Hall, District Courts, Jind.

12. It is not disputed by the petitioner that the interviews for the afore-said post of Child Counsellor/General Counsellors have already been conducted.

13. Considering the totality of circumstances, in my considered view, at this stage, the petitioner is estopped from challenging the terms and conditions/qualification for empanelment of counsellors. The petitioner applied for the afore-said post despite knowing that he lacks requisite qualification/s, as contained in the advertisement (Annexure P-1) and his candidature was rejected and even his subsequent representation dated 15.05.2024 was rejected vide order dated 16.05.2024 passed by the District

and Sessions Judge-cum-Chairman, District Legal Services Authority, Jind.

That apart, even the interviews for the afore-said posts, which were scheduled from 15.05.2024 upto 18.05.2024, already stand conducted. In case, the plea raised by the petitioner, questioning the terms and conditions/qualification for empanelment of counsellors is to be entertained, the same shall amount to turning the clock back and unscrambling the scrambled eggs.

14. No other point has been urged.
15. In view of the above discussion, I do not find any merit in the instant writ petition and the same is accordingly dismissed.

June 05, 2024

gurpreet

Whether speaking/reasoned:

Whether reportable:

(HARSH BUNGER)

JUDGE

Yes/No

Yes/No