



CWP-19600-2012 (O&M) & -1-
CWP-18240-2015 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205 (02 cases)

CWP-19600-2012 (O&M)
Date of Decision :13.11.2024

Avtar Singh Kular

...Petitioner

Versus

State of Punjab and others

...Respondents

CWP-18240-2015 (O&M)

Sukhjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Aalok Jagga, Advocate &
Mr. Karan Inder Singh, Advocate for the petitioner(s).

Mr. Swapan Shorey, DAG, Punjab.

Ms. Alka Chatrath, Advocate with Mr. Nikhil Singh, Advocate
and Ms. Damanpreet Kaur, Advocate
for respondents No.3,5,6 & 10 to 12.

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Harsimran Singh Sethi, J. (Oral)

In the present petitions, grievance being raised by the
petitioners is that the advertisement (Annexure P/1), which has been issued
by the respondents for making selection to the post of Agricultural



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Development Officer is contrary to the Punjab Civil Services (Revised Pay) (Fourth Amendment) Rules, 2001 (in short, '2001 Rules') wherein, the minimum qualification prescribed for appointment to the said post has been prescribed as M.Sc. (Agriculture).

Learned counsel for the petitioners argues that the petitioners competed in pursuance to the advertisement (Annexure P/1) for the post of Agricultural Development Officer but the respondents have selected the candidates who are merely B.Sc. (Agriculture) graduate in preference to the petitioners who are possessing higher qualification of M.Sc. (Agriculture) hence, the candidates having degree of M.Sc. (Agriculture) should have been preferred over and above the candidates, who have been participated on the basis of the degree in B.Sc. (Agriculture).

Learned counsel for the petitioners further submits that it is only in case no candidate having degree in M.Sc. (Agriculture) is available, the candidate with the degree in B.Sc. (Agriculture) could have been selected which process has not been followed by the respondents while making selection to the post in question, which is causing prejudice to the petitioners.

Learned counsel for the respondent-State submits that as per the advertisement (Annexure P/1), the B.Sc (Agriculture) was the essential qualification and M.Sc. (Agriculture) was only a desirable qualification and as per the criteria framed, the candidates who had M.Sc. (Agriculture) have been given weightage of 10 marks for the said qualification but still, the petitioners could not make the grade as they were lower in merit than the selected candidates keeping in view the number of posts advertised hence,



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the petitioners cannot raise any objection as their qualification of M.Sc. (Agriculture) had already been noted and the benefit has been given while making criteria for selection to the post of Agricultural Development Officer.

Learned counsel appearing on behalf of the private respondents submits that once, the selected candidates fulfilled the essential qualification of possessing B.Sc. (Agriculture) degree and the M.Sc. (Agriculture) was only a desirable qualification, the private respondents cannot be treated as ineligible or to hold that only the candidates with M.Sc. (Agriculture) are to be considered in preference to the candidates having degree in B.Sc. (Agriculture) and hence, the present petition is liable to be dismissed.

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

Learned counsel for the petitioners has not been able to point out that the qualification which was mentioned in the advertisement (Annexure P/1) was not in consonance with the statutory rules in any manner. Once, the qualification of B.Sc. (Agriculture) is the essential qualification to be eligible, it cannot be said that the private respondents who have been selected are ineligible.

Qua the argument of the learned counsel for the petitioners that only the candidate with degree in M.Sc. (Agriculture) should have been considered as the same was a desirable qualification and once the candidates with the desirable qualification were available, selecting a candidate with lower qualification is arbitrary and illegal, it may be noticed that the candidate with essential qualification is eligible to compete. No doubt,



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candidate might be having a higher qualification, which is a desirable, but in case, a candidate with the essential qualification, if found more meritorious/suitable for the job, he/she cannot be denied the benefit of selection and consequent appointment merely on the ground that the candidate with the higher qualification is competing.

The last argument which has been raised by the learned counsel for the petitioners is that the advertisement (Annexure P/1) is contrary to the 2001 Rules.

It may be noticed that the rules governing the service are separate than the rules by which the pay of an employee is revised. 2001 Rules which are being relied upon are only the rules by which the pay of the Agriculture Development Officer has been revised. Though, while revising the pay, the State directed the department concerned to amend the rules suitably to make M.Sc. (Agriculture) qualification as minimum qualification for the said post but it is a conceded position that the said the recommendation has never been adopted/ implemented in the service rules so as to make M.Sc. (Agriculture) as a minimum qualification for the said post. The recommendations made in the pay rules cannot be having overriding effect on the rules governing the service as the rules governing the service which prescribes minimum qualification, is to be seen for adjudging the eligibility of a candidate.

Further, the Hon'ble Supreme Court of India in **Secy. (Health) Department of Health vs. Dr. Anita Puri, 1996(4) S.C.T. 321; Secretary, A.P. Public Service Commission vs. Y.V.V.R. Srinivasulu 2003(2) S.C.T. 920 as well as in State of U.P. Vs. Om Parkash 2006(3) S.C.T. 610,** has



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held that a desirable qualification cannot be treated as a minimum qualification so as to oust the candidate fulfilling the minimum/essential qualification required only on the asking of the candidate having desired qualification.

Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the present petitions are accordingly dismissed.

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

A photocopy of this order be placed on the files of connected cases.

November 13, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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