

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

219+220

CWP-17282-2016 (O&M)
Date of decision: 02.05.2024

Gurpreet Singh ..Petitioner

Versus

State of Punjab and others ..Respondents

CWP-17283-2016 (O&M)

Maninder Singh ..Petitioner

Versus

State of Punjab and others ..Respondents

CWP-17367-2016 (O&M)

Manpreet Kaur ..Petitioner

Versus

State of Punjab and others ..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Gursimran Singh Jossan, Advocate for the petitioners

Mr. Arun Gupta, DAG, Punjab

AMAN CHAUDHARY, J (Oral)

1. The aforementioned writ petitions are being disposed of by way of a common judgment, as these involve a similar issue.
2. The present petitions have been filed for directing the respondents to take prompt action on the representations/letters dated 06.05.2016 and 21.06.2016 and complete the verification of degree passed by the petitioners, with further directions to issue appointment letters to them.

3. Learned counsel submits that the petitioners had acquired regular diplomas from Lakshmibai National University of Physical Education, Gwalior (MP) and thereafter applied for the post of Junior Coach under advertisement No.3 of 2012 dated 16.07.2012. Though they figured in the select list, however, their appointment was kept in abeyance, their diploma being not as per the advertisement.

4. On the contrary, learned State counsel contends that it was specified in the advertisement that only those candidates would be eligible who had acquired the Diploma from National Institute of Sports, Patiala, which the petitioners knowing fully well, did not question and went ahead to participate in the process. However, by speaking orders dated 27.09.2016, Annexure R-2 passed by the Department, their candidature was cancelled. By afflux of time also, their prayers could not be acceded to. Ms. Manjit Kaur, Sr. Asstt., apprised learned State counsel that no post regarding the said advertisement was lying vacant, as there was no interim order by this Court.

5. Before proceeding to adjudicate the matter, it would be apposite to refer to the advertisement under which appointment was being sought, relevant paras whereof read thus,

“Education/ Technical Qualifications:-

1. Should have passed Matriculation Examination in Second Division or should have passed Senior Secondary Part I Examination from a recognized university or institution.

2. Should possess Diploma in Coaching from National Institute of Sports.

3. In case of games in which regular diploma courses are not available at National Institute of Sports, Candidate should possess Diploma in Physical Education or should have passed a degree of Bachelor of Physical Education from a recognized university or institution; and

Should be position holder of Open National or First position holder of All India Inter-University meet.

4. Should have passed Matriculation examination with subject of Punjabi.”

6. Notably, the diploma obtained by the petitioners is from Lakshmibai National University of Physical Education, Gwalior (MP) and based on the same, the petitioners are seeking consideration for appointment as Junior Coaches and the challenge has been laid on being not offered the same, which concededly is on account of non-fulfilling the professional qualification required as per the advertisement, which is not under challenge.

7. In **Yogesh Kumar vs. Govt. of NCT, Delhi**, (2003) 3 SCC 548, the appellants, who were having B.Ed degrees, were denied marks as they did not possess junior basic training/primary teachers training certificate (JBT/PTTC) and it was held that, "...Recruitment to public services should be held strictly in accordance with the terms of advertisement and the recruitment rules, if any. Deviation from the rules allows entry to ineligible persons and deprives many others who could have competed for the post..."

8. Law is fairly well settled that unsuccessful candidates should not be allowed to take a somersault just to turn turtle the entire cart, on having failed to make the cut and the rules of the game cannot be tweaked to accommodate the ineligible few. During the pendency of the present petitions, the State had cancelled their candidature by passing speaking orders dated 27.09.2016, Annexure R-2.

9. A three Judge Bench of Hon'ble the Supreme Court in the case of **Om Prakash Shukla vs. Akhilesh Kumar Shukla**, 1986 Supp SCC 285, went to the extent to lay down that, when the petitioner appeared at the examination without protest, found that he would not succeed therein and challenged the said examination, the High Court should not have granted any relief to such a candidate.

10. Even otherwise, it is trite that if a person is selected, no vested right accrues in his favour for appointment.

11. In the instant case, the petitioners participated in the selection process, with open eyes and in complete knowledge of they not possessing the essential qualifications. Thus, in totality of the facts and circumstances, they do not succeed on any of the grounds pleaded or argued by their learned counsel.

12. Ex-consequenti, the present petitions are dismissed.

13. Photocopy of this order be placed on the connected files.

02.05.2024
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No