

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

205

CWP-4755-2015
Date of Decision: 10.01.2024

Vikas Sharma ...Petitioner(s)

Versus

State of Haryana and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Ms. Anu Chatrath, Senior Advocate with Mr. Nikhil Singh,
Advocate for the petitioner

Mr. Ravi Pratap Singh, DAG, Haryana

Mr. Anurag Goyal, Advocate for respondent no.4

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the third respondent/Haryana School Teachers Selection Board (hereinafter referred to as ‘the Board’) to re-interview and re-assess the petitioner’s merit, and award her marks according to the criteria adopted.

2. The Board issued advertisement no.1 of 2012, published on 07.06.2012, inviting applications for various posts of Post Graduate Teachers (PGTs), including 441 posts of PGT Commerce, category no.16 (GEN 274, SC 88, BC 44, ESM 22, PHC 13). Requisite qualification for the post was as provided in the statutory service Rules.

2.1. The petitioner fulfilled the qualification, and applied for the post of PGT Commerce as a general category candidate. She was called for document verification, and later for interview/*viva voce* on 04.01.2013. Being academically bright, the petitioner was hopeful for selection.

2.2. However, in final result of selection for the post of PGT Commerce declared on 03.04.2013, the petitioner's roll number did not figure. Later, in compliance of order passed by this Court, the Board displayed combined result of the candidates, selected and non-selected, along with details of marks, on its official website.

2.3. With these facts, the instant petition was filed seeking re-assessment of the petitioner's merit by interviewing her again.

3. Learned senior counsel for the petitioner has contended that the petitioner is highly meritorious and has about fifteen years of experience of teaching the subject of Commerce in college/school. Therefore, it cannot be believed that she would not perform well in the interview. Her knowledge of the subject, communication and teaching skills, intelligence, general knowledge and awareness and behavioral skills cannot be doubted; these attributes would certainly fetch her more marks than awarded by the Board in the interview. She has also pointed out that the fourth respondent/last selected candidate has been awarded twenty-eight marks out of thirty-three in the interview, whereas the petitioner has been awarded only twelve marks. This shows her merit has not been properly assessed keeping in view her higher qualification and experience, and needs re-assessment for awarding marks as per the criteria.

4. Learned counsel for the fourth respondent as well as learned State counsel contend that the petition is not maintainable, since neither the criteria for selection is under challenge nor has any *mala fide* been alleged against the respondents. The entire selection has been carried out fairly and transparently; the marks have been awarded to the selected candidates strictly as per the criteria. There has not been any complaint about the selection process from any of the candidates. Learned State counsel has also submitted that there is no vacant post of general category with the respondents as on date, and that all the advertised posts have been filled-up.

5. Arguments advanced by learned counsel for the parties have been considered.

6. It is not in dispute that the petitioner duly participated in the selection process, and only after remaining unsuccessful she has filed the instant petition on the ground that her merit has not been correctly assessed in the interview. A perusal of the written statement filed on behalf of the third respondent shows that the petitioner's candidature has been duly considered and she has been awarded marks for each of the criterion.

7. The criteria for selection of candidates for the advertised posts was as under:

Total Marks: 100 Marks

Academic Criteria 67 Marks

The Bifurcation of Academic 67 marks is as under:-

1. Basic Qualifications: 10 Marks
Graduation.
0.10 of the percentage of marks obtained.

2. (a) Essential Qualifications:

35 Marks

M.Com
- (b) B.Ed

5 Marks

0.5 of the percentage of marks obtained.
3. Higher Qualifications:

5 Marks

1) P.hd in the concerned subject 3 Marks

2) M.Phil in the concerned subject 2 Marks
4. STET/HTET

8 Marks

0.8 of the percentage of marks obtained.
5. Sports/NCC

4 Marks

i) Participation at National Level 1 Mark

ii) Participation at International Level 2 Marks

iii) NCC C Grade Certificate 1 Mark

iv) NCC B Grade Certificate 1 Mark

(Maximum 4 Marks of 5(I) to 5(IV))
6. Viva Voce

33 Marks

To assess the knowledge of subject, communication skill and teaching skill. General knowledge, general awareness, intelligence, behavioural skills and personality.

8. Marks awarded to the petitioner in the selection are as follows:

S.No.	Qualification	Marks given to the petitioner as per selection criteria
1.	B.Com	6.750 marks out of 10
2.	M.Com	21.735 marks out of 35
3.	B.Ed.	3.410 marks out of 5

4.	STET	4.590 marks out of 8
5.	M.Phil	2.000 marks out of 2
6.	Viva-voce	12.000 marks out of 33
Total marks		50.48 marks

It has also come on record that marks of the last selected candidate are 56.60 marks (academic qualification 28.598 marks + *viva voce* 28 marks). Therefore, the petitioner being far below in merit, could not have been selected.

9. The assertion by learned senior counsel that looking at the petitioner’s academic record as well as experience of teaching the subject of Commerce over last many years she is entitled to more marks in the interview, is without merit. Merely because a candidate is more experienced, academically better on the basis of higher qualification or higher percentage of marks than other candidates, it cannot be a basis to conclude that she would perform better in the interview as well, or that his/her communication skills, intelligence, general awareness and personality would be better than a candidate with lower marks. Besides, higher qualification, more marks or experience in itself do not ensure better performance in the interview; no such presumption can either be raised. A candidate’s knowledge of the subject, communication skills, general awareness, personality, etc. need to be assessed during interview, and there lies the justification for it. Therefore, award of less marks to the petitioner in interview as compared to those of the fourth respondent/last selected candidate, cannot be a basis to contend that the Board did not properly assess her merit.

10. Further, there is no *mala fide* alleged in the process of selection or against the members of the selection committee. Besides, a perusal of the details of marks awarded to the candidates for academics and interview, as reproduced in the petition, also do not show that there has been a pattern of awarding higher marks in interview to the candidates who were academically far lower in merit so that they could be selected. And none of selected candidates has been impleaded as party to the petition. Therefore, there is no basis to contend that there was anything wrong with the assessment of petitioner’s candidature. It was only on account of being lower in merit she could not be selected.

11. In view of the discussions, there is no merit in the petition, and the same is accordingly dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

10.01.2024
Payal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>