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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-27725-2017

Date of Decision:22.07.2024

ASHOK KUMAR

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Suresh Kumar Kaushik, Advocate
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

Mr. Kanwal Goyal, Advocate and
Ms. Sheena Dahiya, Advocate
for respondent No.2-Commission.

Mr. Keshav Gupta, Advocate
for respondent No.3.

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the final result dated 01.12.2017, Annexure P-10, as well as the selection process pursuant to advertisement no.10 dated 16.02.2016, Annexure P-1, *qua* the post of Assistant Professor English, since the petitioner's candidature therein has been wrongly rejected despite being eligible.

2. Briefly, facts of the case are, the second respondent-Commission advertised posts of Assistant Professors (College Cadre), HES-II, in various subjects, including subject of English, in the Higher Education Department Haryana, vide the aforementioned advertisement. One of the essential



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qualifications for the posts was, Ph.D. degree in the subject concerned, awarded in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009 (for short, 'the UGC Regulations, 2009').

2.1 The petitioner applied for the post in Scheduled Caste (SC) category, and cleared the written test as well. He was called for interview on 29.11.2017, and vide letter dated 17.11.2017, Annexure P-8, asked to submit attested copies of certain documents, including, "*Degree of Ph.D. and also submit a certificate from competent authority with respect to the Ph.D. awarded to them that awarded Ph.D. degree is in accordance with the University Grant Commission (minimum standards and procedure for award of Ph.D. degree) Regulations, 2009*".

2.2 The petitioner, who had been awarded Ph.D. in English on 15.10.2013, from Chhatrapati Shahu Ji Maharaj University, Kanpur, was found not eligible for the post, as he failed to furnish a certificate of the competent authority certifying his Ph.D. degree to be in accordance with the UGC Regulations, 2009. A representation dated 29.11.2017, Annexure P-9, was submitted by him claiming that he had passed M.Phil. examination in 2006, and was registered for Ph.D., prior to 31.05.2009 which made him eligible for the post in question. However, he was still not considered eligible, leading to filing of the instant petition.

3. Learned counsel for the petitioner does not dispute that the petitioner did not furnish any certificate to the Commission, as demanded vide letter dated 17.11.2017, certifying that his Ph.D. degree was in accordance with the UGC Regulations, 2009. The only contention raised by learned

counsel for the petitioner is that the petitioner was eligible for appointment on



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the basis of M.Phil. degree awarded to him by the Kurukshetra University on 18.01.2006, which entitled to exemption from passing National Eligibility Test (NET) in terms of a decision taken by the UGC in its 472nd meeting held on 27.09.2010, Annexure P-11. It is to the following effect:

The Commission further resolved that since both the above mentioned Regulations are prospective and not retrospective in nature, therefore, all candidates having M.Phil degree on or before 10th July, 2009 shall remain exempted from the requirement of NET for the purpose of appointment as lecture/Assistant Professor. Further, all candidates who have either obtained Ph.D. degree on or before 31st December, 2009 and candidates who had registered themselves for Ph.D. degree on or before 10th July, 2009 and are subsequently awarded Ph.D. degree, shall remain exempted from the requirement of NET for the purpose of appointment as Lecturer/Assistant Professor.

Since the petitioner obtained M.Phil. prior to 10.07.2009, he was not required to clear NET to be eligible for the post in question.

4. *Per contra*, learned counsel for the Commission contends that the petitioner was rightly considered ineligible for the post in question, as he failed to furnish the requisite certificate. Further, he contends that qualification for the post as prescribed under statutory Service Rules have been incorporated in the advertisement, wherein no exemption has been provided to M.Phil. degree holders from clearing NET in terms of the decision by the UGC dated 27.09.2010. The petitioner did not challenge the Service Rules on that basis, nor did he impugn the qualification prescribed in the

advertisement issued on 16.02.2016, and knowingly participated in the

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selection process. The instant petition filed after declaration of final result of selection, is not maintainable.

5. Heard.

6. Concededly, the petitioner did not possess a Ph.D. degree awarded in compliance with requirements of the UGC Regulations, 2009. Therefore, no exception can be taken to the Commission's decision in not considering him ineligible for the post on that account. So far as the petitioner's claim for eligibility on the basis of M.Phil. degree, dated 18.01.2006, and the consequent exemption from passing NET in terms of the UGC decision, dated 27.09.2010, is concerned, it cannot be lost sight of that neither the Service Rules grant any such exemption in essential qualification, nor does the advertisement. It is not the petitioner's case either that the said decision/notification was ever adopted by the Government. Therefore, no benefit can be drawn by him on its basis.

7. Further, as apparent on record, there was a long gap between the date of notification of the advertisement and commencement of the selection process; the advertisement was notified on 16.02.2016 and the written test was held on 21.05.2017. The last date for submission of the applications was 15.03.2016. The petitioner did not challenge the impugned condition of the advertisement, instead chose to participate in the selection process without ever seeking exemption from clearing NET on the basis of the UGC decision, dated 27.09.2010. Therefore, after participating in the process and remaining unsuccessful, he cannot be permitted to turn around and challenge the qualifications/conditions of the advertisement to determine eligibility of the candidates.



8. Accordingly, there is no merit in the petition and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

22.07.2024
Ad

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