



CWP-28759-2024 (O&M)

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

(108)

CWP-28759-2024 (O&M)
Date of Decision: 25.10.2024

Dr. Garima

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr.Ashok Kaushik, Advocate, for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

Ms. Sehaj Sandhawalia, Advocate, for respondent No.3.

TRIBHUVAN DAHIYA, J.(ORAL)

The petition has been filed *inter alia* seeking a writ of *certiorari* setting aside Clause 4 of the Note mentioned in the advertisements, dated 26.07.2024, prescribing that cut-off date for age/qualification shall be the date of publication of advertisement in newspaper/website.

2. Briefly, as per facts apparent on record, the petitioner is an applicant for the post of Assistant Professor (ENT) on contractual basis in three State Government Colleges pursuant to advertisements dated 26.07.2024, Annexure P-2 to P-4, issued by the concerned Medical Colleges/Institutes, i.e., Pt. B. D. Sharma Post Graduate Institute of Medical Sciences, Rohtak and BPS Medical College for Women, Khanpur Kalan, Sonapat. The advertisements have been issued in terms of Government notification-‘Engagement of Contractual Faculty Members in Government Medical, Dental and Nursing Colleges Policy, 2024’ (for short, ‘the 2024 Policy’). The essential qualification required for the post is, *MD/MS/DNB*

and one year experience as Senior Resident in the concerned subject in a



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recognised/permitted Medical College after acquiring MD/MS degree. The petitioner is short of only one day in the requisite one-year experience as Senior Resident, and on that account she has not been considered eligible as per revised list of non-eligible candidates notified by the respondents.

3. Learned counsel for the petitioner contends that Clause 4 of Note in the advertisements prescribing that eligibility of candidates will be determined as on the date of publication of the advertisement, is wrong and illegal; instead, the eligibility should be seen on the date of interview for the post in question which would make the petitioner eligible for the post. Further, he has referred to notice, dated 19.10.2024, Annexure P-16, issued by another State Government College-Kalpana Chawla Government Medical College, Karnal, with respect to advertisement for recruitment of teachers on contractual basis in terms of the 2024 Policy, inviting even ineligible candidates for interview. The notice reads, "*The ineligible candidates who want to claim their eligibility, can also be appeared, along with all original documents, including the same due to lack of they were found ineligible.*" Based on that, it is contended that the petitioner should also be considered eligible for the said post.

4. Learned counsel for the respondents, on the contrary, contend that the respondent Colleges/Institutes have advertised various posts of Assistant Professors, and eligibility conditions for the applicants are duly notified therein. The qualifications/experience and age of all the candidates have been determined as on the date of notification of the advertisement, in terms thereof, and no exception can be made in the petitioner's case. It has further been contended that notice issued by Kalpana Chawla Medical College, dated 19.10.2024, will have no application so far as the recruitment process



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being carried out by the respondents is concerned. Besides, the notice has been issued only to decide claim of eligibility by the candidates who have been declared ineligible in terms of notification issued by the College concerned and wish to contest the same.

5. Learned counsel for the parties have been heard.

6. As per undisputed facts on record, the petitioner is not eligible for the advertised post in terms of qualifications laid down in the advertisement, as she lacks the mandatory experience. Therefore, no exception can be taken to the notification declaring her ineligible for the post. Further, challenge to Clause 4 of the Note mentioned in the advertisement prescribing, *cut-off date for age/qualification shall be the date of publication of advertisement in newspaper/website*, is not sustainable since it has not been shown that there is any arbitrariness or illegality about the same. The recruiting agency is within its rights to prescribe any particular date for determining eligibility of candidates, and in case the date of notification of advertisement has been taken to be the cut-of date for the purpose, no exception can be taken to it. Merely because as a result of this condition the petitioner is short of one day in the requisite experience, is no ground to declare it arbitrary. It is not the petitioner's case either that the condition has not been made uniformly applicable to all the candidates. It goes without saying that due to any perceived hardship also the notified condition cannot be altered to facilitate acquiring of eligibility by a candidate/ the petitioner, as that would amount to practicing discrimination. Lastly, no benefit can be drawn by referring to notice, dated 19.10.2024, because the College issuing the same is not a party respondent before the Court. Besides, the notice apparently does not confer eligibility on the ineligible.



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7. In view thereof, there is no ground to entertain the present petition and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

25.10.2024
anil

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