

LPA-3144-2024 (O&M)

2024.PHHC:163113-DB



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

LPA-3144-2024 (O&M)
Date of decision: 09.12.2024

Harkesh Kaur Lottey

..... Petitioner(s)

Versus

State of Punjab and others

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. R.S. Sidhu, Advocate for appellant.

LISA GILL, J.

1. Prayer in this appeal is for setting aside order dated 24.09.2020, passed by learned Single Bench whereby CWP No. 15330 of 2020, filed by appellant-writ petitioner had been dismissed. Appellant-writ petitioner prayed for setting aside selection list dated 04.09.2019 of Centre Head Teacher in physically handicapped category, on the ground that a person lower in merit had been selected. Appellant-writ petitioner also sought setting aside of list dated 17.08.2020 whereby candidature of writ petitioner had been rejected.

2. Appellant-writ petitioner pursuant to advertisement dated 08.03.2019, seeking applications for appointment to 375 posts of Centre Head Teachers and 1558 posts of Head Teachers, applied for the said post claiming to be fully eligible for the same. Candidature of appellant-writ petitioner was

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rejected on the ground that she was over age, her date of birth being 10.05.1969. As per clause 5 of advertisement dated 08.03.2019, age of candidate should be between 18 to 57 years as on 01.01.2019. Her candidature was also rejected on the ground that she did not have 50% marks in Graduation, as per the stipulated terms and conditions and moreover, experience that she had, was of serving at a private school. Learned Single Bench while referring to Rule 6 of Punjab State Elementary Education (Teaching Cadre) Group C Services Rules 2018 (for short – ‘PSEE Group C Service Rules, 2018’), which provides for method of appointment, qualification and experience for post of Centre Head Teacher and Head Teacher, concluded that appellant did not have necessary eligibility for appointment to the post in question. Appellant having participated in the selection process, it was held, was estopped from challenging the same on account of rejection of candidature in terms of the applicable Rules. It is duly noted by the learned Single Bench that appellant at no point of time before the selection or submission of application had sought relaxation in terms of Rule 19 of Punjab Civil Service (General and Common Conditions of Services) Rules, 1994 (for short – ‘PCS Rules, 1994’), thus, rejection of her candidature was found to be valid. Writ petition filed by appellant was dismissed by learned Single Bench vide impugned order dated 24.09.2020 finding no merit therein. Aggrieved therefrom, present appeal has been filed.

3. Learned counsel for appellant vehemently argues that condition of age should have been relaxed for the appellant in terms of Rule 19 of PCS Rules, 1994 as recruitment to the post in question was carried out by the Department after a number of years, advertisement in question had been issued after a long lapse of 7 to 10 years, thus, a sympathetic view should have been taken. It is, thus, prayed, this appeal be allowed.

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4. We heard learned counsel for appellant at length and have gone through the file carefully and considered the matter.

5. It is a matter of record that applicant pursuant to advertisement dated 08.03.2019 submitted her application for recruitment to the post of Centre Head Teacher. Admittedly, appellant's candidature was rejected on the following grounds:-

- “1. Marks in graduation is less than 50%
2. Experience of Private School
3. Overage”

6. It is correctly held by learned Single Bench that appellant not fulfilling the eligibility conditions and having participated in selection process cannot turn around to challenge the same. Argument raised by learned counsel for appellant that relaxation of age should have been afforded keeping in view the factum of recruitment to the post being carried out after a long lapse of time is devoid of merit in the given factual matrix. Advertisement dated 08.03.2019, specifies the age limit of candidates as under:-

“5. Age Limit:-

- (i) The age of the candidate should be between 18 to 37 years as on 01.01.2019.
- (ii) Upper age limit of the employees of Punjab State, Other States and Union Territories States shall be 45 years.”

7. Appellant never approached the authorities prior to submission of her forms, seeking relaxation in age. She submitted forms knowing fully well that she is not eligible for the post in question.

8. It is duly noted by learned Single Bench that eligibility condition regarding requirement of 50% marks in Graduation and requisite experience is provided in Appendix B to PSEE Group C Service Rules, 2018. Applicable

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Rule has been reproduced by learned Single Bench on page 4 of impugned order and is not being reproduced for the sake of brevity. Yet again, it is matter of record that appellant does not fulfill the condition of minimum marks in Graduation. In the given fact situation as above, it is not necessary to enter adjudication upon other argument raised on behalf of appellant in respect to compliance of notification dated 02.05.1997 or any other argument.

9. It is to be noted at this stage that there is delay of 977 days in filing this appeal. Reason for delay as stated in the application and argued before us was that appellant was not aware of her right to appeal for challenging impugned order dated 24.09.2020 and it is only when she came to know of this right on 20.10.2024 through one of her relatives, that this appeal was filed.

10. In our considered opinion, there is infact, no explanation, leave alone a reasonable, sufficient or plausible one to explain such long delay in filing this appeal and especially so in a matter pertaining to selection process. It has been held by Hon'ble the Supreme Court as well as this Court, on number of occasions that it is not length of delay but sufficiency of reasons which may be available for the delay in question. Gainful reference in this regard can be made to decision of Hon'ble the Supreme Court in **K.R. Mudgal versus R.P. Singh 1986 (4)SCC 531**, **B.S. Bajwa versus State of Punjab 1998 (2) SCC 523** and **Bichitrananda Behera vs State of Orissa and others 2023 AIR Supreme Court 5064**.

11. In the present case as noted above, there is no reasonable or sufficient ground for condoning delay of 977 days in filing the appeal.

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12. Learned counsel for appellant is unable to point out any illegality, infirmity or irregularity in impugned order dated 24.09.2020 which calls for interference.
13. No other argument has been raised.
14. Appeal is, accordingly, dismissed on merits as well as being time barred.

(LISA GILL)
JUDGE

December 09, 2024
Sunil/Rts

(SUKHVINDER KAUR)
JUDGE

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