



CWP-24715-2016 (O&M)

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

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CWP-24715-2016 (O&M)
Date of Decision: 05.03.2025

Amarjit Singh

...Petitioner(s)

Versus

The State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Naresh Kaushik, Advocate for the petitioner

Mr. Harish Rathee, Sr. DAG, Haryana

Mr. Balwinder Sangwan, Advocate for respondent no.3/HPSC

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed *inter alia* seeking a writ of *mandamus* directing the respondents to interview the petitioner for the post of Assistant Professor in Tourism by considering him eligible, in response to advertisement dated 16.02.2016, issued by the respondent-Commission.

2. As per facts apparent on record, the Commission issued the aforementioned advertisement for 1647 posts of Assistant Professor (College cadre). It included nine posts of Assistant Professor Tourism, one of which was reserved for Physically Handicapped (General) (Blind) category. Later, a corrigendum dated 29.04.2016, Annexure P-3, was issued clarifying that the posts advertised earlier included whole backlog of disabled persons up to 31.03.2016. The classification of the reserved post of Assistant Professor Tourism was changed from Blind to that of Visually Handicapped (VH) category.

3. The petitioner applied for the post as he had done Master's in Tourism Management from the Kurukshetra University by securing 1649 out

of 3200 marks, i.e., 51.53 per cent, and belonged to Hearing Impaired (HI) category.

4. As per the essential qualifications mentioned in the advertisement, one of the requirements for the candidate was to possess fifty-five per cent marks at Master’s level or an equivalent grade.

5. Essential Qualifications:-
- (I) ASSISTANT PROFESSORS (all subjects except Fine Arts and Mass Communication)
- (a) Good academic record with atleast 55% of the marks or an equivalent grade of B in the 7 point scale with letter grades O,A,B,C,D,E and F at the Master's Degree level in the relevant subject from an Indian University or an equivalent degree from a Foreign University.
- (b) (c) xxx xxx xxx

The advertisement further provided for relaxation of five per cent, i.e., from fifty-five to fifty per cent marks in Master’s degree to physically and visually handicapped persons. The stipulations to that effect are as follows:

- Note: I The following relaxation will however operate for all subjects:-
- a) xxx xxx xxx
- b) Relaxation of 5% is granted from 55% to 50% of marks at Master’s degree level in relevant subject to the Physically and visually Handicapped persons.
- c) & d) xxx xxx xxx

Note: II

xxx xxx xxx

- Note-III Criteria for determining good academic record in case of reserve categories is as under:-
- Relaxation of 5% may be provided from 55% to 50% of the marks in determining good academic record for Scheduled castes/Scheduled Tribes and Physically Handicapped category candidates.

9. General Clarifications:-
- (i) and (ii) xxx xxx xxx



- (iii) The relaxation in upper age and qualifications will be given to those categories where the posts are reserved for them.

The corrigendum vide note (i) also prescribed that the candidates belonging to PH (HI) category, who had applied earlier against the post reserved for PH (HI), would be considered against their categories, i.e., General/SC/BC, as the case may be, if they fulfilled the eligibility conditions etc. meant for their category.

4.1. The petitioner participated in the selection process, cleared the written examination and was shortlisted for scrutiny of documents and *viva voce* vide result dated 16.11.2016, Annexure P-7. He, however, was not considered for appointment since he had not secured fifty-five per cent marks in the Master's degree in the relevant subject/Tourism, and failed to fulfill the minimum required qualification. The rejection of his candidature has been challenged by filing the instant petition.

5. Learned counsel for the petitioner contends that the petitioner is entitled to five per cent relaxation in marks at the Master's level in terms of stipulation in the advertisement since he is physically handicapped suffering from hearing impairment. The respondents could not have rejected his candidature without granting him the relaxation. Secondly, it has been contended that the Commission has made appointment against the post of Assistant Professor Tourism under Physically Handicapped (VH) category by converting it to General category, whereas it could only be converted *inter se* the handicapped categories. The conversion could only have been to another PH category, viz., PH (Hearing impaired), to which the petitioner belongs. In support of the contentions, he has referred to the Government instructions dated 15.07.2014, Annexure P-12. The instructions also stipulate that in case any vacancy is reserved for a category of disability and cannot be filled due to non-



availability of a suitable person, such vacancy shall not be filled, and be carried forward as a 'backlog reserved vacancy' to the subsequent recruitment year.

The relevant part of the instructions read as under:

L) INTER SE EXCHANGE AND CARRY FORWARD OF RESERVATION IN CASE OF DIRECT RECRUITMENT:

a) Reservation for each of the three categories of persons with disabilities shall be made separately. But if the nature of vacancies in an establishment is such that a person of a specific category of disability cannot be employed, the vacancies may be interchanged among the three categories with the approval of the Department of Social Justice & Empowerment and reservation may be determined and vacancies filled accordingly.

b) If any vacancy reserved for any category of disability cannot be filled due to non-availability of a suitable person with that disability or, for any other sufficient reason, such vacancy shall not be filled and shall be carried forward as a 'backlog reserved vacancy' to the subsequent recruitment year.

c) xxx xxx xxx

6. Learned counsel for the Commission, on the contrary, contends that no illegality has been committed in not considering the petitioner's candidature since he is not entitled to claim relaxation of marks in his Master's degree of Tourism Management. Apparently, no post of Hearing-Impaired category of Assistant Professor Tourism was advertised by the Commission. In terms of the stipulation, the relaxation in marks is only available for the candidates belonging to the category for which posts have been advertised. Since the petitioner did not belong to Visually Handicapped category, he was not entitled to the relaxation in qualification.

7. Submissions made by the learned counsel for the parties have been considered.



8. It remains undisputed on record that the Commission has advertised one post of Assistant Professor for Visually Handicapped category vide the advertisement referred to above. The petitioner applied for the same, though he belonged to a different category/Hearing Impaired. He knew the essential qualification for the post was fifty-five percent marks at the Master's level which he did not possess. It was clearly stipulated in 'General Clarifications' of the advertisement, "*The relaxation in upper age and qualifications will be given to those categories where the posts are reserved for them.*" Concededly, the post under Hearing-Impaired category was not reserved, and the relaxation could not have been claimed or granted to the petitioner.

9. The second contention of learned counsel for the petitioner regarding *inter se* change of the handicapped category post is also not sustainable. The provision in the instructions, dated 15.07.2014, is for a different purpose and fact situation. It provides that reservation for each of the three categories of persons with disabilities is to be made separately. In case '*the nature of vacancies in an establishment is such that a person of a specific category of disability cannot be employed*' only then the vacancies may be interchanged among the three categories with the approval of the Department. It is not the petitioner's case that a Visually-Handicapped category candidate cannot be employed on the post in the respondent Department, hence the instructions do not apply. Further, the bar on filling up the post reserved for the disabled with any other category of post, and the requirement to carry forward the vacancy instead of filling it up with a General category candidate, is an issue that cannot be examined in the absence of the affected party being before the Court. The petitioner has not impleaded any such candidate statedly appointed

by converting the post; in this situation no effective relief can be granted even if the allegations are found to be true.

10. In view of the discussion, there is no merit in the petition and it stands dismissed.

11. Pending application(s), if any, also stand(s) disposed of.

05.03.2025

Payal

Whether speaking/reasoned

Whether reportable

(TRIBHUVAN DAHIYA)

JUDGE

Yes/No

Yes/No