

(2016) 02 P&H CK 0105
In the Punjab And Haryana At Chandigarh
Case No : CWP NO. 2059 of 2016

Davinder Singh

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 02-02-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 2 PLR 287

Hon'ble Judges : Rajiv Narain Raina, J.

Bench : Single Bench

Advocate : Kapil Khanna, Advocate, for the Appellant

Final Decision : Dismissed

Judgement

Rajiv Narain Raina, J.- The petitioner failed to qualify the Punjab State Teacher Eligibility Test (PSTET-2015) by one mark. The Test conducted by the Punjab School Education Board was held on 13th December, 2015. The petitioner appeared at the examination centre set up at the S.G.A.D. Govt. Girls Senior Secondary School, Jandiala Road, Tarn Taran. The duration of the Test was two hours and 30 minutes. However, the instructions issued in the Question Booklet allowed extra time of 20 minutes for every one hour to differently-abled candidates. The test consisted of two papers of 150 marks each. The petitioner was admitted to the test under the Reserve Category of Handicapped (Other) (General) Category. It is the assertion of the petitioner that during the test, he asked for the extra time, but the Invigilator refused to allow him extra time remarking that the petitioner's disability involves his leg which has nothing to do with writing, ticking or shading the answer keys by hand. Indisputably, the petitioner has no defect in the hand he writes with using the prescribed "pencil black or blue ball pen".

2. The date of declaration of result is not mentioned in the writ petition for anyone to know whether the representation dated 22.1.2016 (P-15) was submitted before or after the result was published. The result details qua the

petitioner have been attached in download from the net, but the date of declaration of the result is not documented nor is it mentioned in the index of the petition or in the petition or in paragraph 9 thereof. In the list of events, it has been asserted that the condition of extra time was specifically mentioned in the Question Booklet. Extra time for differently-abled candidates @ 20 minutes for every one hour is not mentioned in the Admit Card (Provisional), nor is it mentioned in the notice of the PSTET-2015 (Annexure P-10). He showed up days later complaining of not getting the extra time to complete his papers when he could have raised a shindy earlier or at the time of the test. It would not be incorrect to say that no candidate belonging to the physically disabled category had advance notice that they would be allowed 20 minutes extra time for every hour at the examination centre.

3. Nonetheless, the moot condition was printed in the Question Booklet handed over to the candidates at the examination centre and an extract thereof has been placed as Annexure P-13 to the petition. The condition thus had an element of surprise which was made known only when candidates were admitted to the Examination Centre and handed over the Question Booklet. Be that as it may, the issue to be decided is whether the petitioner was disadvantaged and prejudiced in the Test when the Invigilator refused to give him extra time? Even so, the petitioner's hands suffered no limitations of handicap as his physical condition is restricted to shortening of the right lower limb by 2" certified with permanent disability of 60% (P.P.R.P right lower limb with M.P.Cr 0-3). The Medical Certificate is dated 7th August, 1998. In these circumstances, it cannot be said that the petitioner was unable to perform 2 of 4 to the optimum level when he lost out by one mark. One can imagine it may have taken the petitioner longer to reach the Examination Centre than other candidates due to his disability in the right leg or he had to climb staircases and lost time, but the case is not that on account of suchlike situations he could not reach the Examination Centre in time, despite his best effort. If he reported at the Examination Centre within the appointed time, then there was nothing wrong with his hand to write the examination, and therefore, the Invigilator who may have refused him the extra time did not commit any palpable wrong entitling the petitioner to relief of one additional mark by a court direction.

4. The Invigilator must have been conscious of the physical condition the petitioner was placed which was not one such that he was unable to write at the desired speed. When the Board referred to extra time for disabled candidates who would be provided 20 minutes extra time, it must have referred to only such disability as may be occasioned by things such as poor eyesight or candidates using Braille or defect in hands slowing down the speed of writing. There is no abnormality in the petitioner above his torso, and therefore, the petitioner should not take undue advantage of his physical handicap in a competitive examination where he required only the use of his learning skills and his hand at the speed he was accustomed to write over the years.

5. The grievance expressed in the writ petition is neither genuine nor bona fide and consequently a mandamus would not issue declaring him pass by awarding him one grace mark to qualify in the test. It is not the case of the petitioner that he had prior knowledge that physical disability would be advantaged by head start by grant of extra time. I think he was placed equally with the rest of the candidates appearing at the test. The fact that he lost out by one mark cuts into his argument of being disadvantaged by what the invigilator spontaneously did. The petitioner evidently wants to become a teacher on the strength inter alia of qualifying the PSTET and I would only remind him that Lord Byron had a defect in his leg which gave him famously the Byronic limp but it did not deter him to be a great poet. I find no ground to interfere in this petition. It is accordingly dismissed.