
(2011) 05 SHI CK 0267
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 15660 of 2008

Kumari Nisha Sharma

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 02-05-2011

Acts Referred:

Citation : (2011) 05 SHI CK 0267

Hon'ble Judges : Kuldip Singh, J

Bench : Single Bench

Judgement

Kuldip Singh, J.—The Petitioner has prayed for quashing of order dated 11.09.2007 whereby Respondent No. 5 Smt. Raj Rani (Anjana Devi) has been selected for the post of Primary Assistant Teacher (PAT). The prayer has also been made that Respondent No. 5 may be restrained from joining as PAT and Petitioner be appointed to the said post with all consequential benefits with effect from the date of joining of Respondent No. 5.

2. The brief facts of the case are that Petitioner applied for the post of PAT. The Respondent No. 5 was appointed as PAT wrongly, illegally. The Petitioner had produced all the relevant documents including OBC certificate issued by Executive Magistrate, Rajgarh, but she was not appointed as PAT. On the contrary, Respondent No. 5 has been appointed as PAT, who is less meritorious.

3. The Respondents 1 to 3 have contested the petition and filed the reply. It has been stated that selection has been made in accordance with the norms and procedure as prescribed by the Government for the purpose of selection, appointment of PAT. In reply, it has been stated that performance of the Petitioner and Respondent No. 5 was as follows:

Applicant:

+ 2 Marks (actual %age)

B.A.

PG

Certificate/Diploma one year course.

Unemployed family

Personal Interview

Total

31.1

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10

She has not Produce OBC Certificate from Competent Authority hence not eligible.

Respondent No.5:-

+ 2 Marks (actual %age)

B.A.

PG

Certificate/Diploma one year course.

Unemployed family

Personal Interview

Total

27.4

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9

46.4

4. It has been stated that post of PAT in Government Primary School, Hinner, was reserved for category of Other Backward Class as notified by the government. The proforma of marks shows that the Petitioner had failed to produce Other Backward Class Certificate issued by the competent authority at the time of interview and, therefore, she was declared ineligible for the said post. The

learned Counsel representing Respondents No. 4 and 5 has adopted the reply filed by Respondents 1 to 3 on behalf of Respondents 4 and 5.

5. It has been submitted by Learned Additional Advocate General that Petitioner at the time of interview had submitted OBC certificate issued by Executive Magistrate, Rajgarh. The learned Counsel for the Respondents 4 and 5 has stated that in Annexure P-1, it has been provided that the relevant certificates of the reserved posts shall also be produced. On behalf of the Respondents, it has been submitted that the case of the Petitioner was rejected on the ground that OBC certificate issued by Executive Magistrate, Rajgarh, is not valid. The competent authority for issuing OBC certificate for the Petitioner is the Officer within whose jurisdiction the school concerned is located.

6. In support of the submission that OBC certificate should be issued by the Officer within whose jurisdiction the concerned school is located, no rule or policy of the government has been shown. It is not the stand of the Respondents that the OBC certificate issued by Executive Magistrate, Rajgarh and relied by the Petitioner is forged document or Petitioner does not belong to OBC category. The certificate has been rejected only on the ground that it has not been issued by the competent authority. The Respondents have failed to point out that, in fact, OBC certificate should have been issued by the Executive Magistrate where the school is located.

7. According to the stand of the Respondents 1 to 3 noticed above, the Respondent No. 5 has secured 46.4 marks, whereas, no marks were awarded to the Petitioner in personal interview as she failed to produce the OBC certificate issued by competent authority. The Respondents 1 to 3 have erred in not considering the OBC certificate submitted by the Petitioner issued by the Executive Magistrate, Rajgarh, at the time of interview. In these circumstances, the selection of Respondent No. 5 as PAT is not sustainable.

8. In view of above, the selection of Respondent No. 5 as Primary Assistant Teacher in Government Primary School, Hinner, Block Kandaghat, District Solan, is quashed. The Respondents 1 to 3 are directed to consider the case of the Petitioner for appointment as Primary Assistant Teacher, Government Primary School, Hinner, after giving Petitioner an opportunity for interview. The Respondents are also directed to consider the OBC certificate issued by the Executive Magistrate, Rajgarh and submitted by Petitioner for the post of Primary Assistant Teacher, Government Primary School, Hinner. The Respondents 1 to 3 shall do the needful within a period of two months from today. Till fresh selection and appointment as directed is made, the present arrangement shall continue. The petition stands disposed of on above terms.