
(2015) 05 P&H CK 0354

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 25889 of 2012

Manju Rani

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 27-05-2015

Acts Referred:

Citation : (2015) 05 P&H CK 0354

Hon'ble Judges : Daya Chaudhary, J

Bench : Single Bench

Advocate : Ajay Shekhawat, for the Appellant; Harish Rathee, Sr. D.A.G.,
Advocates for the Respondent

Final Decision : Dismissed

Judgement

Daya Chaudhary, J.—The prayer in the present petition is for quashing of action of the respondents in not conducting the interview of the petitioner for the post of PGT (Biology) in response to advertisement No. 1 of 2012 under category No. 4. A further prayer has also been made for issuance of direction to respondents No. 2 and 3 to take the interview of the petitioner for the aforesaid post reserved for SC and also to consider the qualification of M.Sc. Zoology and Aquaculture with specialization in Fisheries from Chaudhary Charan Singh Haryana Agricultural University, Hisar as M.Sc. Zoology.

2. Briefly, the facts of the case are that in response to aforesaid advertisement, the petitioner applied for the post of PGT (Biology) under category No. 4. After submission of the application, the interview letter was issued to the petitioner but she was not interviewed on the ground that degree of M.Sc. from the Department of Zoology and Aquaculture with specialization in Fisheries does not fall in the category of Zoology. The petitioner has passed Master's Degree in Science and was eligible for the post of PGT (Biology) but she was not interviewed on the ground that Master's Degree in Zoology was required.

3. Learned counsel for the petitioner contends that under similar circumstances

C.W.P. No. 19046 of 2012 (Kajal Vs. State of Haryana and others) was filed by that petitioner, wherein, directions were issued to the respondents to interview the petitioner provisionally for said post vide order dated 26.5.2014. Learned counsel further contends that M.Sc. in Fisheries falls under the discipline of "Life Science" and the petitioner was fully eligible for the post of PGT (Biology) as she has passed M.Sc. with specialization in Fisheries from Department of Zoology, which is a part of Zoology. Learned counsel also submits that the action of the respondents in not allowing the petitioner to interview is contrary to the principles of natural justice as all the objections raised by the respondents were removed before the date of interview but still she was not interviewed. It is also the contention of learned counsel that in Kajal's case (supra), it was held that qualification of the petitioner would be covered under the term "M.Sc. in Life Science" as has been held by the Division Bench of this Court in C.W.P. No. 13125 of 2012 titled as Babli Vs. State of Haryana and others, decided on 4.12.2012.

4. Written statement on behalf of respondent No. 4-University has already been filed, which is on record. It has been stated that Degree of M.Sc. is covered under "Life Science Discipline" and as such the holders of M.Sc. Fisheries Degree may be considered eligible for the post of PGT (Biology) under "Life Science Discipline". It has also been stated that all the courses run by the Department i.e. Molecular Biology and Bio-technology, Microbiology, Zoology, Botany, Food Science and Technology, Bioinformatics, Fisheries, Plant Physiology and Biochemistry are covered under the "Life Science".

5. Similarly reply on behalf of respondent No. 3-Haryana School Teachers Selection Board has also been filed, which is also on record. In the reply, it has been stated that the petitioner does not possess the requisite qualification as prescribed by respondents No. 1 and 2. The requirement for the post is within the domain of the appointing authority i.e. School Education Department, Haryana.

6. Learned counsel for the respondent-State submits that respondent-Board is the recruiting agency and recruitment is to be carried out as per the qualification prescribed by the concerned department. The School Education Department, Haryana sent requisition along with Haryana State Education School Cadre (Group B) Service Rules, 2012 and the Mewat District School Education (Group B) Service Rules, 2012 for recruitment to various posts of PGT including the post of PGT (Biology). Learned counsel further submits that qualification required for a particular post is within the domain of the appointing authority and when a particular specialization has been specified in the advertisement then it is to be followed in true spirit. Learned counsel also submits that the controversy in the present case is squarely covered by the decision of this Court in C.W.P. No. 14939 of 2011, titled as Rakesh and others Vs. State of Haryana and others decided on 9.10.2013, wherein judgment in Babli's case (supra) was also distinguished.

7. Heard the arguments advanced by learned counsel for the petitioner, learned State counsel as well as respondent No. 4 and have also perused the documents available on the file.

8. Admittedly, an advertisement No. 1 of 2012 was published, whereby, applications were invited for the post of PGT (Biology) under category No. 4. The essential qualification for the post of PGT (Biology) is as under:-

"M.Sc. Zoology/Botany/Bio-Science/Bio-Chemistry/Genetics/Micro-Biology/Plant Pathology/Bio-Technology/Life Science/Molecular Bio with at least 50% marks provided that the applicant had studied Botany and Zoology at Graduation Level and B.Ed. From recognized university."

9. The petitioner applied for the aforesaid post in the category of Scheduled Caste. The interview letter was sent to the petitioner but she was not interviewed on the ground that she did not possess the requisite qualification for the post of PGT (Biology) as she has passed M.Sc. with specialization in Fisheries from the Department of Zoology, which even does not fall in the category of Zoology. The case of the petitioner is that she was eligible for the post as she has done B.Sc. with Botany and Zoology and has also passed Master of Science Degree in Biology with specialization in Fisheries. The argument of learned counsel for the petitioner is that the case of the petitioner is squarely covered by the judgment of this Court in Kajal's case (supra), wherein, judgment of Babli's case (supra) has also been relied upon. The stand of the respondent-State is that the judgments of Kajal's case (supra) and Babli's case (supra) have been distinguished in Rakesh's case (supra), wherein, it has been held that the degree of the petitioner cannot be considered as the same as the same is not a part of faculty of "Life Science". It was held in the said judgment that neither there is a specific course nor any subject is taught by the name of "Life Science" as "Life Science" is a structured faculty and various courses are run under this faculty by the University.

10. Undisputedly, it is the employer who has to prescribe the qualification required for a particular post. The Court is not an expert in seeing the requirement of a particular post. The question for determination in the present case is as to whether the degree of the petitioner falls in the category of "Life Science" in view of qualifications required as per advertisement. In Babli's case (supra), the petitioners were interviewed provisionally as per the interim orders passed by the Court. It was also directed that in case they had already been interviewed, they would be considered as per their merit. The candidates who were not interviewed were also directed to be interviewed by the Selection Committee subject to fulfillment of their qualifications. The said judgment of Babli's case (supra) was also relied upon in Kajal's case (supra), wherein, a direction was issued to the respondents to consider the petitioner as eligible for appointment to the post of PGT (Biology) on the ground that the course done by the petitioner would be covered by the qualification "M.Sc. (Life Science)". A further direction was also issued that result of the petitioner be declared along

with other candidates who have applied for the post in question. In the said case, judgment of Rakesh's case (supra) was also distinguished by stating that the same was not applicable to the case in hand. On the other hand, in Rakesh's case (supra) both the judgments i.e. Babli's case (supra) and Kajal's case (supra) have been distinguished by holding that there is no specific course or subject taught as "Life Science". There are 16 courses which fall under the category of "Life Science". It has been held that Life Science cannot be considered as a course, which is separately taught. It has been held by Hon''ble the Apex Court in the case of District Collector and Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram and Another Vs. M. Tripura Sundari Devi, (1990) 2 LLJ 153 : (1990) 1 SCALE 806 : (1990) 3 SCC 655 : (1990) 2 SCR 559 : (1990) 1 UJ 710 that no interference can be made with the qualification in a case when specific qualification is laid down. It is a matter between the appointing authority and the appointee concerned. Whether a qualification is equivalent to or higher than the prescribed qualification, it is to be decided by the appointing authority and not by the Court as it is for the specialized agencies to determine equivalence of qualifications. It has repeatedly been held by Hon''ble the Apex Court in various judgments and a reference can be made to the case of Rajender Prasad Mathur etc. Vs. Karnataka University and another 1986 AIR 1448.

11. In the present case, the grievance of the petitioner is that she is having equivalent qualification for appointment to the post of PGT (Biology), whereas, the essential qualification has been laid down in the service rules called as The Haryana State Education School Cadre (Group B) Service Rules, 2012 and The Mewat District School Education (Group B) Service Rules, which is reproduced as under:-

"M.Sc. Zoology/Botany/Bio-science/Bio-chemistry/Genetics/Micro-Biology/Plant Pathology/Bio-Technology/Life Science/Molecular Biology with at least 50% marks provided that the applicant had studied Botany and Zoology at Graduation Level and B.Ed. from recognized university."

12. During the recruitment process, a corrigendum dated 3.7.2012 was also issued by the Haryana School Teacher Selection Board and an amendment was carried out in the Rules and notified on 2.7.2012 vide which a transitional provision was made. The persons fulfilling the conditions of essential qualifications as per old rules of Haryana State Education Lecturer School Cadre (Group C) Service Rules, 1998 were made eligible for recruitment as one time measure provided such person shall have to qualify the HTET and B.Ed. by 1.4.2015. In the present case the said amendment does not make any difference as the requirement of the Rule is M.Sc. in Biology. The petitioner is having degree of M.Sc. in Zoology with specialization in Fisheries, which cannot be considered to be part of Zoology. A list of 16 courses fall under the umbrella of "Life Sciences". In Rakesh's case (supra), this Court has held that there is no specific course or subject known as "Life Science". In fact in all the institutions in

the State of Haryana, "Life Science" is structured as a faculty and those universities run various courses under this faculty.

13. In view of the facts as mentioned above, there is no merit in the contentions raised by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.