
(2019) 10 P&H CK 0211
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5375 Of 2015

Savita	Vs	APPELLANT
State Of Haryana And Others		RESPONDENT

Date of Decision : 19-10-2019

Acts Referred:

Citation : (2019) 10 P&H CK 0211

Hon'ble Judges : B.S. Walia, J

Bench : Single Bench

Advocate : Balwinder Singh, Harish Rathee

Final Decision : Allowed

Judgement

B.S. Walia, J

[1] Prayer in the writ petition is for the issuance of a writ of Mandamus for directing the respondents to re-calculate the marks obtained by the petitioner in the selection process and to declare her result accordingly.

[2] Brief facts of the case, leading to the filing of the writ petition are that in response to advertisement Annexure P/8 dated 08.11.2012 issued by respondent No.3, the petitioner applied for the post of Primary Teacher (PRT Group 'C' post) in the General Category. Relevant extract of the essential qualifications for the post of Primary Teachers (PRT) Group 'C' posts are reproduced as under :-

"Essential Qualification/Eligibility

(i) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education; OR

Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education in accordance with the NCTE (Recognition Norms and Procedure), Regulations 2002; OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year

Bachelor of Elementary Education (B. El. Ed.); OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education); OR

B.A./B.Sc./B.Com and 2-year Diploma in Elementary Education (by whatever name known).

(For recognition of Diploma/Degree see note-2).

(ii) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET) of Haryana for Primary Teacher.

OR

Four years teaching experience as Primary Teachers as One time exemption of HTET/STET (See Note-3).

(iii) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject."

[3] Last date for submitting applications for the post was 08.12.2012. The petitioner applied online for the aforementioned post under the General Category in response to advertisement Annexure P/8. No documents were required to be attached along with the application form. All documents were required to be shown and verified at the time of interview. As per admit card, Annexure P/10, the petitioner was required to produce original documents in support of her eligibility as per qualifications stipulated in the advertisement on 22.07.2013 for verification/scrutiny, at the time of interview.

[4] Learned counsel contends that on account of not being well versed in computer operations, the petitioner took the help of the cyber café owner for filling up the online application form due to which some inadvertent mistakes occurred in the details in the online application form and instead of mentioning 2191 marks obtained in the Diploma in Education as evident from certificate Annexure P/6 dated 07.09.2010, the petitioner wrongly mentioned having secured 2091 marks. Likewise, the petitioner inadvertently omitted mentioning marks obtained by her in M.Sc. whereas as per Annexure P/5 i.e. M.Sc. certificate dated 29.04.2009, the petitioner had secured 508 out of 1000 marks.

[5] Learned counsel contends that no option was available to the petitioner to correct the inadvertent omission online, therefore she pointed out the same to the interviewing committee at the time of scrutiny/verification of documents on 22.07.2013 before the interview whereupon the Interviewing Committee permitted the petitioner to incorporate the correct details in the online application form. Learned counsel contends that the same could be verified from the record with the Selection Committee. Pursuant to order dated 23.03.2015, record has been produced by the Learned Senior Deputy Advocate General, Haryana who states that the record obtained from the Interviewing Committee reveals that the online application form contains entry of marks 2191 as against

2091 originally entered against qualification of Diploma in Education, besides 508 out of 1000 marks for the M.Sc. qualification . Learned Counsel for the petitioner contends that the same vindicates the stand of the petitioner, therefore the writ petition is liable to be allowed and the respondents directed to declare the petitioners result as per correct details of qualifications.

[6] I have considered the submissions of learned counsel for the parties. Admittedly, the petitioner fulfilled the essential advertised qualifications for applying for the post in question as is evident from the certificates in support of the essential qualifications issued years before the last date for submitting of online application form. Apparently, the omission to mention the full details in the online application form viz. correct marks of Diploma in Education as well as marks obtained in M.Sc. was due to inadvertence and inexperience in filling up details online.

[7] Learned counsel for the petitioner relies upon the decision of a coordinate bench of this Court in CWP No.14863 of 2017 in case titled as 'Sarla versus State of Haryana and others', in which the candidature of the petitioner was cancelled on the ground that while filling the online form, she had declared her category as 'BCB' whereas she belonged to the 'EBPG' Category. The coordinate bench while taking note of the fact that the petitioner was given a certificate in support of her category much before the last date of submission of application form and it not being a case that the petitioner therein intentionally had tried to change her category from 'BCB' to 'EBPG' held the mistake to be a clerical mistake. The coordinate bench while holding that it was not the case of the respondents that the certificate relied upon by the petitioner was not valid besides incorrect details had been filled up due to inadvertence, as also that there was no provision on the website of the Commission for allowing correction in the online application form, allowed the writ petition and directed the respondents therein to consider the case of the petitioner under the ex-Servicemen Category.

[8] The aforementioned decision was upheld by Hon'ble, the Division Bench in LPA No.320 of 2019 in case titled as 'Haryana Staff Selection Committee through its Secretary versus Sarla and others' vide orders dated 22.02.2019. Relevant extract of the same is reproduced as under:-

"5. We cannot lose sight of the fact that in view of the prevailing socio economic condition in our country, every citizen is neither net savvy nor has a computer or laptop readily available for use. In these circumstances, when such a candidate has to submit an application on-line he has to dependent upon the cyber cafes providing the net services. Being himself/herself not computer and net savvy the candidate has to depend upon the operator in the cyber cafe to fill in online form and in such a circumstance if any mistake occurs it would be wholly unrealistic and arbitrary to make such a candidate suffer. It is also to be taken note of that if an incorrect entry is made due to human error, there is no provision on the website of the Commission allowing correction in the online application form. In these circumstances, if a mistake is committed, there being no provision for

carrying out correction, even if it is noticed subsequently, a poor candidate is to suffer for no fault.

6. In the case in hand, the respondent-petitioner is a poor widow lady and is resident of village Karora, District Kaithal, where she was working as an Anganwari Worker. It is pleaded in the writ petition that online application form was submitted by her through computer centre in the village. In view of the aforesaid facts and circumstances we find no illegality in the view taken by the learned Single Judge allowing the claim of the respondent-petitioner.

7. After hearing learned counsel for the appellant we are also not persuaded to take a different view in the matter than the taken by the learned Single Judge. Appeal thus accordingly stands dismissed."

[9] In the instant case also, the petitioner filled up the online form through a cyber cafe and claims that the inadvertent omissions occurred on account of inexperience in operating computers while filling up the online form in a cyber café. Besides the certificates relied upon by the petitioner, details of which were permitted to be incorporated by the Interviewing Committee at the time of scrutiny of documents are of a date much prior to the last date for applying for the post in response to advertisement Annexure P/8.

[10] In the circumstances, the writ petition is allowed. The respondents are directed to determine the merit of the petitioner as per the details, which were allowed to be incorporated in the hard copy of online application form by the Interviewing Committee on 22.07.2013 at the time of scrutiny/verification of documents before conduct of interview and to declare her result as per merit and take such further action as may be warranted in the facts and circumstances of the case, as expeditiously as possible, preferably within a period of three months from the date of receipt of certified copy of this order.