
(2010) 05 SHI CK 0216
In the High Court Of Himachal Pradesh

Smt. Sarika

APPELLANT

Vs

State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 03-05-2010

Acts Referred:

Citation : (2010) 05 SHI CK 0216

Hon'ble Judges : Kurian Joseph, C.J;R.B. Misra, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—Whether the selection Committee is entitled to change the norms of selection or vary the qualification or give preference to any particular qualification in the absence of such permission in the Notification for appointment, is a question to be considered in this case.

2. The petitioner is a post graduate in Psychology. According to the petitioner, she has worked as Medical Social Worker on contract basis for a period of eighteen months in IGMCI, Shimla. Certificate to that regard is produced as Annexure P-3. The second respondent invited application for appointment to various posts. Serial No. 1 is Medical Social Worker, essential qualification notified in the Notification is, "Post graduate in Social science or Sociology from a university recognized by Centre or HP Govt., (2) Experience in Health Education extension education, Family Planning, Social work in any recognized institution?". According to the petitioner, she being post graduate in Social science is eligible to be considered for appointment. However, the stand taken by the second respondent is that expression Social science is vast if not vague and the post notified being Medical Social Worker the Selection Committee was of the view that only those who possessed qualification Sociology are entitled to take part in the selection process. The stand is explained in the reply of the second respondent at paragraphs 7 and 8 as follows:

7 & 8. That in reply to the contents of paras 7 & 8 of the petition, it is submitted that for the purpose of selection of candidates for various posts in terms of the Employment Notice (Annexure P-4) and Corrigendum (Annexure P-5), the Roji

Kalyan Smiti had constituted an Selection/Interview Board having persons of eminence which met on 14.09.2009 at 10 A.M. i.e. well before the start of interviews and deliberated upon the eligibility criteria and qualifications etc. laid down for different category of posts as per the Recruitment & Promotion Rules. It is worthwhile to mention that the educational qualification prescribed for the post of Medical Social Worker (MSW) which was Post Graduate Degree in Social Science or Sociology from a recognized university was discussed in detail. The members of the Board were of the view that the Social Science, as a whole, is a broad discipline having many unrelated subjects like Psychology, Yoga, Home Science, Library etc. to the job requirements of the Medical Social Workers in Rogi Kalyan Smiti in IGMC, Shimla and it was decided that the candidates having Post-graduate degree in Sociology or Social Work would be allowed to take MCQ test or interview, as the case may be. On 14.09.2009 since 66 candidates had appears for the posts of Medical Social Worker out of which it was found that 13 candidates were possessing qualifications in unrelated subjects like Psychology, History and Political Science etc. Accordingly, these candidates were not allowed to take MCQ Test in view of the decision of the Selection/interview Board and the remaining 53 candidates had appeared in the test. Since the petitioner did not fulfill the requisite educational qualifications, she was also not allowed to appear in the test alongwith other candidates who were ineligible for not possessing the essential qualification for the posts Medical Social Worker prescribed by the Rogi Kalyan Smiti.

3. We are afraid that this stand cannot be appreciated. The notified qualification is Post Graduate in Social Science or Sociology. Not even a preference is indicated to Post Graduate in Sociology. No doubt, Social Science is a vast field and several subjects would come in the branch of Social Science. In fact, Social Science is a genus and Sociology is a species. But the question is whether the Selection Committee is free to interpret the notified qualification. It is settled position under law that once the Rules for a game are notified, and once the game starts, the Rules cannot be changed midway. See also Mohd. Sohrab Khan Vs. Aligarh Muslim University and Others, Madan Mohan Sharma and Another Vs. State of Rajasthan and Others, K. Manjusree Vs. State of A.P. and Another,

4. The Selection Committee is bound by the notified procedure for selection is also bound to consider all the candidates who possessed the notified qualification. In case the employer or for that matter the selection Committee wanted to restrict the candidates to those possessing Sociology alone, it should have been notified so. Even if they wanted to give preference to the candidates possessing Sociology, to that extent the preference should have been indicated in the Notification itself. Having not done either, all candidates possessing Post Graduation in any discipline of Social Science were entitled to be considered for selection.

5. We are informed that selection in terms of the corrigendum had already been conducted by subjecting the candidates to multiple choice questions and

thereafter interview was also conducted and two persons have already been appointed. We are also informed that one post, in view of the interim order, has been reserved. Since no other candidate has challenged the selection process and since only one post has been reserved, we do not think that this Court should issue a Writ setting aside the whole process and should direct the selection to be conducted afresh in terms of what is clarified above. The ends of justice would be met if a direction is issued to the second respondent to treat the petitioner as duly qualified for being considered for appointment to the post and since the petitioner alone is left now, it is not required for the second respondent to go for multiple choice questions test. The second respondent will interview the petitioner in terms of the Notification treating her as duly qualified and in case the petitioner is found otherwise eligible and suitable, she shall be offered appointment in terms of the Notification. The needful in this regard shall be done within a period of one month from the date of production of a copy of this judgment.

6. The Writ Petition is disposed of, so also the pending applications.

7. Dasti copy on usual terms.