

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 19820 of 2008
Date of decision: 6.8.2009

Ritu ...petitioner
Versus

State of Haryana and others ...respondents.

CORAM: HON'BLE MR. JUSTICE RANJIT SINGH

Present: Ms. Alka Chatrath, Advocate
for the petitioner.

Mr. Harish Rathee, Sr.DAG, Haryana
for the State.

RANJIT SINGH J.

The petitioner is a grand daughter of Chandan Singh, a freedom fighter. She had applied for appointment to the post of JBT teacher pursuant to an advertisement dated 28.7.2006. 3483 posts of JBT teacher were so advertised. The essential qualification for the post was Graduate with English as one of the optional/elective subject and two years JBT Course or D.Ed. training course from the Haryana Education Department or its equivalent recognized by the Haryana Government with special training in child psychology and behaviour of child up to the age of 12 years. The petitioner is having a qualification of B.A., B.Ed. and had applied for this post. The selection process was started. The petitioner would rely upon instructions, which provide that the wards of freedom fighter would be considered against the post reserved for ex-servicemen and their dependent if those posts remain vacant due to non-availability of such category candidates. When the petitioner was not called for

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interview, she thought that this may be due to availability of ex-servicemen or their dependent. When the result was declared, the petitioner noticed that 35 posts in the category of ex-servicemen had remained vacant. When the respondents published advertisement for filling up posts of JBT teacher on 4.7.2008, Annexure P-12. The petitioner approached this Court through the present writ petition staking claim against these 35 posts which had remained unfilled. The submission is that as per instructions, Annexure P-9, the petitioner was eligible for consideration being third priority on the basis having B.A, B.Ed. qualification and the action of the respondents not calling the petitioner for interview is not legally justified.

In the reply filed, respondents disclosed that the petitioner was not considered eligible for appointment as JBT teacher as she was not having the requisite essential qualification as per the advertisement. State counsel would submit that the condition in the advertisement would govern the selection and appointment and not the instructions, which have been relied upon by the counsel for the petitioner. State counsel also relies upon a decision in Civil Writ Petition No. 14983 of 2007 decided on 10.12.2007 where Division Bench of this Court, while dealing with similar controversy has held as under:

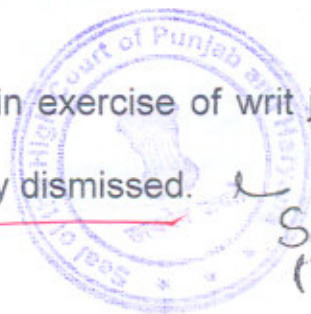
" We feel that the qualification of B.Ed., cannot be treated equivalent to that of JBT. Admittedly, candidates who acquire JBT qualification they are supposed to undergo specialised training which is not imparted to the candidates who opt for B.Ed. Course. The matter is

squarely covered by ratio of judgment of Hon'ble the Supreme Court in **Dalip Kumar Ghosh and other versus Chairman and others**, 2005 (4) SCT 332."

The essential qualification are to be seen on the basis of the advertisement inviting application for the posts. If some instructions issued by the Government are to be kept in view, indication in this regard must be given in advertisement itself. The respondent Government may be aware of the instructions issued on the subject and if intention was to consider such candidate as third priority once the candidate with requisite qualification were not available then this was required to be reflected in the advertisement. Essential qualification has to be provided in the advertisement. There may be number of persons who are similarly qualified as the petitioner is, but may not have applied on the ground that they did not possess the essential qualification as advertised. It is because of this that the essential qualifications which are given in the advertisement and these are to be strictly followed. I am thus of the view that the instructions would not help the cause of the petitioner as she does not possess the essential qualification as prescribed in the advertisement.

No case for interference in exercise of writ jurisdiction is made out. The petition is accordingly dismissed.

August 06, 2009
rts



Sd/-
(RANJIT SINGH)
JUDGE

*DA added
Raj Singh
Sd/-
12/8/09*

True copy
manika
31/8/09
Examiner