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Court : Himachal Pradesh

Decided On : May-23-2011

Judge : Kuldip Singh, J.

Appeal No. : Civil Writ Petition (T) No. 14359 of 2008

Appellant : Lalman

Respondent : State of Himachal Pradesh and ors.

Advocate for Def. : Ms. Ruma Kaushik; Mr. J.S.Rana, Advs.

Advocate for Pet/Ap. : Mr. Gurdev Thakur, Adv.

Judgement :

1. The petitioner has prayed a direction to consider his name for the post of Primary Assistant Teacher (PAT) against the reserved vacancy of Ex-serviceman on the basis of his educational qualification certificate Annexure-PD with a further direction to respondents not to fill up the vacancy till the petitioner is called and considered for the selection as PAT against the reserved vacancy meant for Ex-serviceman. The prayer has also been made for a direction to respondents to finalize the interview held on 23.8.2005 for the purpose of selection of the petitioner as PAT against Gopalpur-Ist Block in Sarkaghat Tehsil, Distt. Mandi.

2. The brief facts of the case are that petitioner was enrolled in the Army on 18.2.1984 and discharged from Army on Pension Establishment on 28.2.2001

after completing more than 17 years of service. The vacancy of PAT for Ex-serviceman in Gopalpur-1 Block of Sarkaghat alongwith other vacancies was advertised. The petitioner applied for the Gopalpur-1 vacancy and interview letter dated 25.7.2005 was issued by the Block Primary Education Officer, Gopalpur Ist to the petitioner. The Block Primary Education Officer was the member of the Selection Committee headed by Sub Divisional Officer (Civil), Sarkaghat. The interview was fixed on 23.8.2005 at 10.00 a.m. at Sarkaghat.

3. The petitioner appeared before the Selection Committee, he was asked by the Selection Committee to show his academic qualification and other testimonials. The petitioner submitted all requisite documents including Indian Army Graduation Certificate. The Selection Committee did not consider and recognize the qualification of the petitioner and no marks for Army Graduation were given, as the petitioner according to Selection Committee was not plus two. The petitioner was not selected and post of PAT in Gopalpur Ist Block remained vacant.

4. The petitioner has assailed the decision of the Selection Committee for not considering his case for selection as PAT on the ground that he was eligible and was having essential qualification. The Indian Army Graduation Certificate Annexure PC was not considered properly. The government has given relaxation and treated the Ex-servicemen having Graduation qualification in Army equal to graduates for awarding 10 marks under the policy framed for the purpose of the selection of the PAT candidates.

5. The petition has been contested by the respondents by filing reply. It has been stated in the reply that as per letter dated 27.5.2005 the requisite qualification for appointment of PAT against JBT post is 10+2 from the same Panchayat. The petitioner is graduate from Army after matriculation and did not pass plus two examination and also belongs to another Panchayat i.e. Gram Panchayat Jamni. The Selection Committee has rightly did not recommend the name of the petitioner for the post of PAT as per scheme. It has been stated that clarification dated 9.3.2006 issued by the Directorate of Primary Education provides that if a candidate, who joined army as matriculate and without passing 10+2 during his service acquired higher qualifications such as graduation/ post graduation/ B.Ed.

etc. appears for the post of PAT, such candidate be considered at the time of interview on the basis of his higher education but 50 marks specified for 10+2 shall not be awarded to such candidate.

6. I have heard the learned counsel for the parties. The respondents have rejected the case of the petitioner on two grounds;

(i) that he does not belong to the same Panchayat and

(ii) that he was not 10+2. The clarification dated 9.3.2006 is later in time. The interview was fixed in July/ August 2005.

7. It has been submitted by the learned counsel for the petitioner that petitioner was the only candidate, who had applied for the post of PAT reserved for Ex-serviceman and the policy provides that if a candidate from the same Panchayat is not available for appointment and a candidate from adjoining Panchayat is available, then such candidate can be considered for appointment. The petitioner in the petition has not projected the case that he belongs to adjoining Panchayat.

8. The petitioner has not denied that candidate belonging to the same Panchayat where the post was available, was eligible for the appointment against the post reserved for Ex-serviceman. The petitioner does not belong to the Panchayat where the post of PAT for Ex-serviceman existed. The petitioner according to this eligibility condition was not eligible for appointment as PAT against the post reserved for Ex-serviceman in Gopalpur Ist Block of Sarkaghat Tehsil.

9. The eligibility of the petitioner on the basis of qualification for the post of PAT meant for Ex-servicemen needs no further determination in view of rejection of case of petitioner that he does not belong to the same Panchayat where post of PAT existed. The question of eligibility of petitioner on the basis of Army Graduation Certificate is left open. The petition is disposed of only on the ground that petitioner was not eligible for appointment against the post of Ex-serviceman in Gopalpur Ist Block of Tehsil Sarkaghat since he does not belong to the same Panchayat where the post was available.

10. Accordingly, the petition is dismissed.

