

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Const. Petition No.D-1678 of 2018

Date	Order with signature of Judge
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1. For orders on office objection at flag `A`
2. For hearing of main case

03-10-2023

Mr. Achar Khan Gabol, Advocate for the Petitioner
Mr. Zulfiqar Ali Naich, Assistant Advocate General

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Muhammad Iqbal Kalhoro,J:- Petitioner applied for a post of HST in terms of Recruitment Policy in the year 2012. He was allowed to appear in the test and was declared qualified in the final merit list. However, he was denied offer plus posting order on the ground that he was not B.Ed. on the cutoff date: 20.06.2012, the last date of filing applications and relevant certificates.

The case of the petitioner is that he had got admission in the B.Ed. course in February 2011, had completed it prior to the cutoff date and was allowed to appear in the exam for the above post held on 23.12.2012. He, however, admits that the result of B.Ed. examination was announced on 07.08.2012 after the cutoff date. But, per him, since the exams were held much prior to the cutoff date and he was allowed to participate subsequently in the test for the said post and had qualified the same, he has got a right to be appointed as HST.

On the other hand, learned Assistant Advocate General has submitted that the facts on the ground cannot be changed. The petitioner was not B.Ed on 20.06.2012, the last date of submitting applications with complete set of documents showing qualification of the candidate concerned. His appearance in the test and qualifying the same will not alter the fact of his being not qualified to apply for the post on the cutoff date, and his appearance and qualification as successful candidate would not create a right in favour of the petitioner to be appointed as HST, nor would it ward off his inherent disqualification to apply for the post. He in this regard has referred to Rule 1(7) of Teacher Recruitment Policy 2012 and an order dated

11.07.2018 passed by this Court in CP No.D-1948/2014 and others, wherein the delay of two days in submitting form-D along with application for the appointment of HST to be done through the same Policy was considered fatal and the relief was denied to the petitioners.

We have heard the parties and perused the material available on record. We do not see any reason to disagree with learned Assistant Advocate General that once in an advertisement cutoff date is announced for submission of applications and relevant certificates, it would be considered final date to take into account qualification of a candidate to apply for the post. If a candidate is qualified to apply, his application would be competent and he would be allowed to contest the exam with other candidates likewise qualified. This factual position will not be altered on any ground including the one raised by the petitioner that subsequently before the date of exams the result of B.Ed. was announced and he was declared successful. By invoking constitutional jurisdiction, we cannot change either the cutoff date or extend it till the time result of B.Ed. exam was announced, when the policy expressly envisage importance of the cutoff date, fixed for submitting complete application, to be the final date to apply.

The fact that the petitioner was not B.Ed. on the cutoff date is acknowledged. The relevant rule in the policy cited by learned AAG further confirms the point that cutoff date was the final date insofar as filing of application along with certificates is concerned. A person/candidate not B.Ed. on the cutoff date, irrespective of his appearance and success in the test (which in our view should not have been permitted) or his appearance in already held examination of B.Ed. would not *ipso facto* make him qualified to the appointment of HST. In addition, the question of submission of the forms within cutoff date was considered by this court in the aforesaid petitions in which one of the counsel appearing was the counsel who has appeared today before us and two days delay in submitting requisite form was considered fatal and this court had refused to exercise constitutional jurisdiction in favour of the petitioners.

Besides, we find that this petition is also suffering from laches. The Policy was announced in 2012, the test was conducted in 2012, offer and posting orders were reportedly issued to the

successful candidates in 2015. But the petitioner did not approach this court immediately thereafter and filed this petition in 2018 after a long time without explaining the same. Therefore on both counts on merits as well as on the ground of laches we find this petition incompetent and accordingly dismiss it.

The petition is accordingly disposed of.

JUDGE

JUDGE

Sulemen Khan/PA

