

requisite qualification of having passed the Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET). The petitioner further seeks a direction to the respondents to appoint her as PGT in the subject of Geography.

The uncontroverted facts, which have emerged from perusal of the record and the arguments raised at the bar are that through advertisement dated 07.06.2012, the respondent Board invited applications for appointments to the posts of PGTs, including 18 posts of PGT (Geography). Passing of HTET/STET exam was one of the requisite qualifications. However, one time exemption from passing HTET/STET was to be granted to candidates, who had a minimum of four years' teaching experience as on 11.04.2012 in privately managed Govt. Aided Schools, Recognized Schools and Govt. Schools and were in service on 11.04.2012. In case the candidates were selected and appointed, they were required to pass the HTET after their joining and on their failing to clear the test, their services were liable to be terminated. The advertisement further provided that the Certificate for exemption from passing the HTET/STET was required to be signed by the Head of the Institute, verified by the District Education Officer (DEO) and counter-signed by Director of Secondary Education (hereinafter referred to as – the Director) of the concerned State. Notes 2 and 3, as contained in the advertisement, which are relevant, are reproduced below :-

“Note 2. *A one time exemption of HTET/STET has been granted to the candidates who have worked for a minimum 4 years till 11.04.2012 in privately managed Govt. Aided Schools, Recognized Schools and Govt. Schools. Candidate must be in service on 11.04.2012 in addition to being in position on the date of applying for the said post. They will have to qualify HTET not later than 1st April 2015 otherwise their services will be terminated automatically. Qualification / eligibility conditions and certificates will be determined with regard to last date fixed for submission of online applications also called as closing date given in the advertisement.*

Note 3. *One time exemption certificate for HTET/STET & one time upper age relaxation certificate from Head of*

the Institute is required to be verified by DEO & counter-signed by Director of Secondary Education of the concerned State. One time implies that an applicant can apply only once for a particular category of post in the first advertisement. No such exemption will be granted in the subsequent advertisement.”

The petitioner applied for consideration of her candidature against the post of PGT (Geography) and along with her application, she submitted a Certificate dated 13.07.2012 signed by the Head of the Institute, verified by the DEO, Rohtak, as also counter-signed by the Deputy Director for Director, Secondary Education, Haryana, certifying therein that her total teaching experience was 04 years 01 month and 23 days and that she was eligible for the grant of one time exemption from passing HTET/STET exam. Though the above referred Certificate was good enough to grant her the required exemption, as a matter of abundant caution, she also appended, along with her application, experience certificates certifying her teaching experience of over 02 years in Recognized Schools by the Education Department, Haryana from 12.01.2005 to 31.05.2007. This experience of 02 years between 12.01.2005

and 31.05.2007 was in addition to the teaching experience, on the basis of which the exemption certificate dated 13.07.2012 had been issued.

On consideration of the application of the petitioner, through order dated 08.10.2012, her candidature was rejected on the ground that she did not have the required teaching experience of four years to be granted exemption from passing of HTET/STET, as certified in the exemption certificate dated 13.07.2012. So far as her experience certificates for the period from 12.01.2005 to 31.05.2007 were concerned, the same were rejected on the ground that they were not counter-signed by the Director. She was given opportunity of seven days to put forward her case to claim her eligibility, in response to which she reiterated that her teaching experience from July 2007 till July 2012 i.e. for 04 years 01 month and 23 days had already been certified and counter-signed on behalf of the Director, Secondary Education, Haryana. Her other teaching experience from January 2005 till May 2007 was also got counter-signed from the Director and produced. However, her candidature was still rejected on the following two counts :

- (i) that the exemption certificate dated 13.07.2012 submitted by her, duly counter-signed by the Director certified that the petitioner had a total teaching experience of 04 years 01 month and 23 days, but since the petitioner had been working as a Guest Lecturer, after counting the total periods taught by her, her actual teaching experience was found to be 03

years, 03 months and 01 day, which did not qualify her for the grant of exemption.

(ii) that the teaching experience of the petitioner of over 02 years from January 2005 till May 2007, which was in addition to the teaching experience which formed the basis of the exemption certificate dated 13.07.2012, was not considered as the certificates appended by her with her application, though verified and counter-signed by the DEO, Rohtak, had not been counter-signed by the Director. Further, these certificates, duly counter-signed by the Director, produced by the petitioner, in pursuance to the Show Cause Notice, were not considered as the same was after the last date of submission of applications.

It is the above action of the respondents, which is challenged by the petitioner through the present petition.

As per the interim order passed by this Court, the petitioner was permitted to participate in the selection process, which she did. As per another interim order passed by this Court, her result was ordered to be produced, from the perusal of which it was found that the petitioner had secured more marks than the last selected candidate in her category.

The question that requires to be determined is whether the petitioner's candidature could be rejected for want of requisite teaching experience of 04 years which was needed to make her eligible for the grant of exemption from having passed HTET/STET.

The exemption certificate dated 13.07.2012, which was duly counter-signed by the Director, certified that the petitioner had the requisite teaching experience of 04 years 01 month and 23 days needed for the grant of exemption from passing HTET/STET. After applying a formula qua all Guest Lecturers like the petitioner, the teaching experience was re-calculated by the respondents and it was thus found that after applying the formula, the actual teaching experience of the petitioner was 03 years 03 months and 01 day.

Counsel for the petitioner submits that no formula could be applied to reduce the teaching experience already certified. To counter this, counsel for the respondents has relied upon a judgment of this Court in **C.W.P. No. 21576 of 2012 – Karpal Singh vs. State of Haryana and others**, decided on **18.12.2013**, wherein the application of the formula in the same selection has been held to be valid.

After going through the judgment in **Karpal Singh's** case (*supra*), counsel for the petitioner does not press this issue.

This brings me to the second issue as culled out earlier which is whether the teaching experience of the petitioner between 12.01.2005 and 31.05.2007 is to be considered while considering to grant her exemption from passing of HTET/STET. Certificates with regard to the teaching experience of the petitioner from January 2005 till May 2007, duly counter-signed by the DEO, Rohtak, were duly appended with her application form.

In the petition, the petitioner avers that she went to the office of respondent no. 3 – Director to get them counter-signed, but she was informed that though they had been, on an earlier occasion, counter-signed by the DEO, Rohtak, she was required to get fresh counter-signatures on the same. The petitioner then went to the DEO, Rohtak, who refused to sign the same on the ground that he had, at an earlier point of time, already appended his signatures, and therefore, no fresh attestation was required. He further stated that the exemption certificate dated 13.07.2012, in which he and the Director had certified that the petitioner was eligible for the grant of exemption, were enough to grant her exemption. The above referred averments have been made by the petitioner in paragraphs 11 and 12 of the writ petition, which are reproduced below :-

“11. That petitioner approached respondent No. 3 for counter signing the experience certificates Annexure P/1 & P/6, however, he has counter signed the Annexure P/6 on 16.07.2012 and directed the petitioner to get fresh signature from Respondent No. 4 on experience certificate Annexure P/1. Petitioner also made a representation before respondent No.3 about the conduct of respondent No. 7

*towards her for illegally deducted 52 days from her experience vide her representation dated 16.07.2012 but to no avail. A copy representation dated 16.07.2012 is attached herewith as **Annexure P/9**.*

12. That petitioner again approached respondent No. 4 for signing afresh on her experience certificates Annexure P/1 as desired by respondent No. 3, however, respondent No. 4 refused to sign afresh by stating that he has already signed and there is no requirement of fresh signature. Therefore, petitioner was made a shuttle cock by respondent No. 3 & 4, however, none of them has counter signed the experience certificate Annexure P/1.
[Emphasis supplied]

The DEO, Rohtak has been arrayed as respondent no. 4 in his individual capacity. Though served, he has not bothered to file a counter.

The petitioner has made specific averments with regard to the fact that she had placed her experience certificates from the period January 2005 till May 2007 before the Director, who had sent her back to the DEO,

Rohtak and that the DEO, Rohtak had refused to append fresh signatures on the same and thus, she could not submit the counter-signed experience certificates along with her application. In the counter filed by respondent Director, it is admitted that the petitioner had presented the certificates before him, but she was sent back to the DEO, Rohtak. The refusal on the part of the DEO, Rohtak to attest these certificates has been specifically averred and not controverted by respondent no. 4 – DEO, Rohtak. The same are, therefore, deemed to be admitted and if that is so, then no fault can be found with the petitioner for having not submitted these documents duly counter-signed by the Director. The petitioner had nothing to gain and everything to lose by not submitting these documents as required and once it is admitted by the Director that she did come to him for his counter-signatures and it is he who sent her back to the DEO, Rohtak, who refused to sign the certificates saying that he had already signed them about five years ago, this fact cannot be held against the petitioner.

In this regard, it would be useful to refer to the following observations made by a Division Bench of this Court in **Ram Parkash vs. State of Haryana and others** reported as **2005 (3) SLR 648**, where it was held as under :-

“10. It is not possible to accept the plea of the respondents that the petitioner failed to produce the certificate dated

22.09.2004 at the time of his interview on 25.09.2004. The petitioner had nothing to gain by not producing the eligibility certificate. In the writ petition, he has meticulously set out the efforts made by him for obtaining the necessary eligibility certificate before 30.8.2004. A perusal of the eligibility certificate attached as Annexure P-10 with the writ petition, shows that it had been prepared on 25.8.2004. It was not issued to the petitioner till 22.9.2004 as the Secretary of Zila Sainik Board, Jhajjar was not available. We are of the opinion that for this lapse of the Zila Sainik Board, the petitioner cannot be made to suffer. The eligibility of the petitioner to be considered for selection in the Category of dependents of Ex-serviceman, S.C.-B is not in doubt, excepting the production of the eligibility certificate. In view of the peculiar facts and circumstances of this case, we are of the opinion that it would be

wholly inappropriate to permit the respondents-State to ignore the candidature of the petitioner.”

The exemption certificate dated 13.07.2012 issued by the respondents was counter-signed on behalf of the Director, in which it was specifically stated that the petitioner was being granted exemption from HTET/STET. That being so, she would have rested her oars, legitimately expecting that she, through the above said certificate, has been granted exemption from HTET/STET. If this certificate, duly counter-signed by the Director, was at a later stage to be disputed by the respondents, then it was incumbent upon them to give opportunity to the petitioner to make good her teaching experience.

The petitioner had already appended, along with above referred certificates, an exemption certificate, duly counter-signed by the Director, showing that her experience from July 2007 till July 2012 was for 04 years 01 month and 23 days, on the basis of which, she was certified by the Director to have been granted exemption from HTET/STET. The petitioner did not know that a formula was going to be applied, which would reduce the certified experience of 04 years 01 month and 23 days to 03 years 03 months and 01 day. Once the application of this formula was not in the knowledge of the petitioner, after applying of the same, the petitioner should have been and was granted opportunity to make good her teaching

experience for the grant of exemption from HTET/STET.

In fact, as soon as the petitioner was informed with regard to her ineligibility, she produced the certificate with regard to her teaching experience from January 2005 to May 2007, duly counter-signed by the Director. In the peculiar facts of the case, this should have been accepted especially when experience certificates from January 2005 till May 2007, duly counter-signed by the DEO, Rohtak, had already been appended by the petitioner along with her application showing that the same were genuine and had not been procured by way of an after-thought. The teaching experience so mentioned in these certificates had also been counter-signed by the Director, further proving their genuineness.

In the peculiar facts and circumstances, as noticed above, I feel that the petitioner cannot be faulted with. Rather, the record reveals that she has been treated unfairly at the hands of the respondents, particularly respondent no. 4. The action of the respondents is also found to violate the principles of natural justice. The petitioner has also secured much more marks than the last selected candidate in her category.

In view of the above, the writ petition is allowed and since the perused result of the petitioner shows that she has secured more marks than the last selected candidate, the respondents are directed to appoint her to the post of PGT (Geography) with effect from the date a candidate in her category, who has secured less marks than the petitioner, had been

appointed, with all consequential benefits.

(DEEPAK SIBAL)
JUDGE

September 10, 2015
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