

IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

1. CWP No.19932 of 2015

Amit Kumar ...Petitioner

Versus

The State of Haryana and others ... Respondents

2. CWP No.19947 of 2015

Ajay Kumar Sharma ...Petitioner

Versus

The State of Haryana and others ... Respondents

3. CWP No.19948 of 2015

Dinesh Kumar ...Petitioner

Versus

The State of Haryana and others ... Respondents

Date of Decision:18/09/2015

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Jagbir Malik, Advocate for the petitioner (s).

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest?

DEEPAK SIBAL, J. (Oral)

Since the issue of fact and law involved in CWP Nos.19932, 19947, 19948 of 2015 is the same, they are being disposed of through this common judgment. However, for the sake of convenience, facts are being extracted from CWP No.19932 of 2015; Amit Kumar v. The State of Haryana and others.

The petitioner seeks quashing of the action of the respondents

of not accepting his application form for the post of PGT History which he

attempted to fill online. He further prays for issuance of directions to the respondents to consider him eligible for the post of PGT History.

A few facts may be noticed.

Through advertisement dated 28.6.2015, the respondent-Haryana Staff Selection Commission (hereinafter referred to as “the Commission”) invited applications for appointment to the post of PGT Teachers. The appointment to the post of PGT History, the post to which the petitioner seeks to apply for, is governed by the Statutory Rules promulgated by the Government of Haryana known as the Haryana State Education School Cadre (Group B) Service Rules, 2012 (hereinafter referred to as the “2012 Rules”)

Rule 7 of the 2012 Rules deals with the qualifications for appointment to the posts which are covered by the 2012 Rules and reads as under:

“7. No person shall be appointed to any post in the Service, unless he is in possession of qualifications and experience specified in column 3 of Appendix B to these rules in the case of direct recruitment on contract basis and those specified in Column 4 of the aforesaid Appendix in the case of persons appointed other than by direct recruitment on contractual basis;

Provided that in case of on contractual basis direct recruitment, if the required number of candidates of Scheduled Caste, Backward Class, other backward classes, Ex-Servicemen and Physically Handicapped having not the required the experience are not available against the vacancies reserved for them, then relaxation in experience upto the limit of fifty percent may by order, for reason to be recorded in writing, given at the discretion of the recruiting agency.”

The relevant portion of Appendix B which contains the prescribed qualification for the post of PGT History is extracted as below:

Sr. No.	Designation of Post	Academic qualification and experience, if any, for direct recruitment on contract basis	Academic qualification and experience, if any, for appointment by promotion on contract basis
5.	PGT History	(i) M.A. History with at least 50% marks and B.Ed. from recognized University; AND (ii) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject; AND (iii) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET) (iv) Consistent good academic record.	(i) M.A. History with at least 50% marks and B.Ed. from recognized University; AND (ii) 2 Years teaching experience as TGT Social Study; and (iii) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET)

From the above, it is clear that B.Ed. is an essential qualification for direct recruitment.

While admitting that the petitioner did not possess B.Ed, learned counsel for the petitioner relies upon note (ii) as contained in the 2012 Rules to declare the petitioner eligible. Note (ii) is as under:

“A person who has passed STET/HTET without the qualification of B.Ed. before the notification of these rules, shall be considered eligible for the post of PGT in the case of direct recruitment.”

Relying on the above note, it is submitted that the petitioner, who has passed STET/HTET before 2012, should be considered eligible for the post of PGT even if he has not passed B.Ed.

The argument impresses at first blush but a scrutiny of the record reveals that the above quoted note (ii) as contained in the 2012 Rules has been amended through the Haryana State Education School Cadre (Group B) Service (Second Amendment) Rules, 2012 (hereinafter referred to as the “2012 Amendment”). The same reads as under:

“ *HARYANA GOVERNMENT*

SCHOOL EDUCATION DEPARTMENT

Notification

The 2nd July, 2012

No.GSR 22/Const. Art. 309/2012.- In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Governor of Haryana hereby makes the following rules further to amend the Haryana State Education School Cadre (Group B) Service Rules, 2012, namely:-

1. (1) These rules may be called the Haryana State Education School Cadre (Group B) Service (Second Amendment) Rules, 2012.

(2) These Rules shall be deemed to have come into force with effect from 11th April, 2012.

2. In the Haryana State Education School Cadre (Group B) Service Rules, 2012 (hereinafter called the said rules), after rule 19, the following rule shall be inserted, namely:-

“19 A. Transitional provision.- The person fulfilling the conditions enunciated under note (i) or (ii)(a) of Appendix B to these rules and possess the qualifications under column 3 mentioned against the respective posts in the Haryana State Education Lecturer School Cadre (Group C) Service Rules, 1998, shall also be eligible for recruitment as a one time measure:

Provided that such person shall have to qualify the Haryana Teachers Eligibility Test (HTET) and B.Ed. by Ist April, 2015 and if he fails to do so, his appointment shall stand terminated automatically without giving any further notice.”.

3. In the said rules, in Appendix B, for note (i), the following note shall be substituted, namely:-

(i) That in case of direct recruitment, the teachers working in privately managed Government aided, recognized and Government schools, are exempted from having qualifications of Haryana Teachers Eligibility Test or School Teachers Eligibility Test and B.Ed. as described in column 3, if they have worked as a teacher for a minimum period of four years on the date of enforcement of these rules.

4. In the said rules, in Appendix B, for note (ii), the following note shall be substituted namely:-

“(ii) (a) A person who has passed Haryana Teachers Eligibility Test or School Teachers Eligibility Test without the qualification of

B.Ed., before the notification of these rules, shall also be considered eligible for the post of PGT in the case of direct recruitment as one time measure in the first recruitment to be held after amendment of these rules.

(b) The condition of 'Consistent Good Academic Record' wherever appearing in Appendix B, under column 3 of these rules shall not be made applicable during the first recruitment made under these rules, in the case of candidates eligible under note (i) or (ii)(a).

SURINA RAJAN

*Principal Secretary to Government Haryana,
School Education Department, Chandigarh.”*

The above referred amendment to the 2012 Rules, which comes into force with effect from 11.4.2012, clearly stipulates that the exemption from passing B.Ed examination as provided through note (ii) to the 2012 Rules was only as a one time measure and not available thereafter. This exemption, as a one time measure, has already been granted to candidates who had applied in pursuance to an earlier advertisement issued in the year 2012 itself.

So far as the present advertisement is concerned, as per the above quoted Amendment to the 2012 Rules, B.Ed. qualification alongwith HTET/STET is an essential qualification.

Admittedly the petitioner does not possess the prescribed qualification as he has not passed B.Ed examination. There is also no challenge to the 2012 Amendment, in the absence of which, the same would bind the petitioner.

In view of the above, finding no merit in the present petitions i.e. CWP Nos.19932, 19947 and 19948 of 2015 the same are hereby dismissed.

No costs.

**(DEEPAK SIBAL)
JUDGE**

18.09.2015
rajeev