

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CM No.16001 of 2015 in/&
CWP No.25030 of 2015**

Mandeep Kaur & ors.

... Petitioners

Vs.

State of Punjab & anr.

...Respondents

CWP No.25057 of 2015

Amrinder Singh & ors.

... Petitioners

Vs.

State of Punjab & anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. H.C. Arora, Advocate and
Mr. Mukand Gupta, Advocate
for the petitioners.

G.S.SANDHAWALIA, J.(Oral)

CM No.16001 of 2015

Application for placing on record Annexures P-20 & P-21 is
allowed to subject all just exceptions.

CM stands disposed of.

CWP No.25057 of 2015

This order will dispose of two writ petition bearing CWP
Nos.25030 of 2015 and 25057 of 2015 as same question of law is
involved in both the petitions. The facts of the case are taken from
CWP No.25057 of 2015.

Challenge in the present writ petition is to Clause 3 of the
public notice dated 09.11.2015 (Annexure P-3) whereby respondent
No.2 invited applications for filling up 3522 posts of E.T.T. teachers in

the Punjab Education Department. The clause prescribes that apart from the education qualification of the aspirants having Elementary Teacher Training - 2 years course, the merit list would be on the basis of marks obtained by the candidates in the Punjab State Teachers Eligibility Test-1 (PSTET). It is the case of the petitioner that the percentage of marks obtained in the diploma in Elementary Teacher Training or the Bachelor of Elementary Education etc. are being ignored. Reference is made to Clause 9 of the guidelines issued by NCTE to submit that the marks in the TET are only a eligibility criteria and does not confer any right of recruitment or employment. Reference is also made to an earlier advertisement issued by the Department of Rural Development and Panchayats, Punjab in the year 2014 (Annexure P-4) to submit that there was different criteria and marks were to be awarded by giving the benefit of percentage of marks in all educational fields. It is accordingly, submitted that the criteria, which has now been laid down is not justified when the merit list is to be prepared.

Thus, the principal issue, which arises is that whether the methodology of recruitment or the criteria which is to be fixed is to be interfered by this Court only because the petitioners are having other qualifications which are liable for consideration for appointment.

It is settled principle that it is for the employer to lay down the basis on which he chooses to select aspirants and it is not for this Court to see to examine the fact that the criteria which is laid down is patently arbitrary in the absence of any violation of the Statute or mala fides on the part of the respondent. The criteria of selection would be within the domain of the employer. Reference can be made

to the judgment of the Hon'ble Apex Court passed in ***Union of India Vs. Pushpa Rani & ors., 2008 (11) SCR 440***. The issue in question in the said case which arose was the question of reservation for the post and the restructuring of the cadres, and it was accordingly held as under:

"Before parting with this aspect of the case, we consider it necessary to reiterate the settled legal position that matters relating to creation and abolition of posts, formation and structuring/restructuring of cadres, prescribing the source/mode of recruitment and qualifications, criteria of selection, evaluation of service records of the employees fall within the exclusive domain of the employer. What steps should be taken for improving efficiency of the administration is also the preserve of the employer. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated due to mala fides. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post be filled by direct recruitment or promotion or by transfer. The Court has no role in determining the methodology of recruitment or laying down the criteria of selection. It is also not open the Court to make comparative evaluation of the merit of the candidates. The Court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving efficiency of administration."

It is settled principle that it is the State to lay down the policy and in the absence of any mala fide being pointed out that the same is being done to suit some private respondents, Clause 3 cannot be held to be arbitrary as canvassed by the counsel for the petitioner.

Reliance has been placed upon the decision of this Court passed in **CWP No.17832 of 2014** titled as **Wazir Kaur vs. State of Punjab decided on 26.11.2014** would not of any assistance. Perusal of the said case shows that permission was sought for the admission in diploma in elementary education, which was restricted to a age limit of 27 years. The upper age limit for applying to the job was 38 years and accordingly, this Court came to the conclusion that it should be on a rational basis and quashed the clause fixing the age limit for taking of admission. Thus, the said judgment has no applicability in the present case.

Resultantly, the present cases have no merit and both the writ petitions stand dismissed.

Photocopy of the order be placed on the file of other case.

11.12.2015
sonia

(G.S.SANDHAWALIA)
JUDGE