

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

LPA No.1146 of 2015 (O&M)
Date of Decision:03.12.2015

Raman Garg and another

...Appellants

Versus

State Council for Education and Research Training Punjab

...Respondents

**Coram: Hon'ble Mr. Justice S.S. Saron
Hon'ble Mr. Justice Amol Rattan Singh**

Present: Mr. Sardavinder Goyal, Advocate
for the appellants.

Mr. PPS Thethi, Addl. Advocate General, Punjab

S.S. Saron, J.

Learned counsel for the State has submitted in Court a report of the Expert Committee constituted by the Government with respect to disputed question No.11. The same is taken on record.

Heard learned counsel for the parties.

The appeal has been filed by appellants against the judgment and order dated 28.05.2015 passed in CWP No.7788 of 2015, whereby their writ petition seeking quashing of result (Annexure P-2 and P-3), prepared by the State Council of Education and Research Training (SCERT), Punjab, in view of irregularities in the question-papers and answer-sheets (Annexure P-4 and P-5), has been dismissed.

Learned counsel for the appellants submits that insofar as appeal filed by Jaswinder Kaur (appellant No.2) is concerned, she has already been given the benefit of marks, as she belongs to Backward Class category, therefore, the LPA on her behalf is not pursued and it has been rendered infructuous.

The Right of Children to Free and Compulsory Education Act, 2009 ('Act'-for short) has been enacted. Section 23 of the Act provides for qualifications for appointment and terms and conditions of service of teachers. Sub Section (1) of Section 23 envisages that any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher. The National Council for Teachers Education (NCTE), which is an academic authority has vide notification dated 23.08.2010 laid down minimum qualifications for a candidate to be eligible for appointment as a teacher for Classes I to VIII. One of the pre-requisite conditions for a person to be eligible for appointment as a teacher is that he/she should pass the Teachers Eligibility Test (TET) to be conducted by the State governments in accordance with the guidelines framed by NCTE. The guidelines for Punjab State Teachers Eligibility Test (PSTET) based on the NCTE guidelines were issued by the Department of School Education, Government of Punjab. The responsibility for conducting the test was entrusted to the SCERT, which assigned the work for completing the formalities to a

private agency. As per the guidelines two papers of PSTET were provided. Paper I was for the applicants who intended to seek eligibility for consideration for appointment as Classes I to V teachers and paper II for Class VI to VIII. In case a candidate intended to be a teacher for both the levels, he/she was required to appear in both the papers

The qualifying marks for General/Ex-servicemen for being eligible for appointment as a teacher was 60% or more in the PSTET examinations. A candidate was required to get 90 and above out of 150 marks. Raman Garg, appellant No.1 appeared in Paper II of the PSTET for being eligible for consideration for appointment as a teacher for Classes VI to VIII. He was declared 'not qualified' in his Paper II of the PSTET, which was the eligibility test for consideration for appointment as teachers for Classes VI to VIII. He secured 89 marks out of 150 marks in the General category, against the qualifying marks of 90. He having been declared 'not qualified' in Paper II of PSTET, filed a petition seeking quashing of the result declared by the respondents. It was contended that wrong answers were given in the options of Paper II of PSTET held on 28.12.2013 for being eligible for consideration for appointment for Classes VI to VIII teachers.

Appellant No.1, as already noticed, secured 89 marks in the PSTET-II paper and was short by 1 mark for being eligible for consideration for appointment as a Teacher for Classes VI to VIII.

One of the questions, i.e. question No.11 in the examinations, was to the following effect:-

“Which of the following statements about adolescent is true?

- a. Girls typically start their pubertal growth spurt more than a year before boys.
- b. Although the age at which individual children begin to mature varies, the time required for pubertal changes is quite uniform.
- c. During adolescence, one begins feeling the need for both intimacy and sexual gratification.
- d. All the above are true.”

According to the answer-sheet (Annexure P-5), the correct answer to question No.11 is 'a', i.e. Girls typically start their pubertal growth spurt more than a year before boys. The appellant had given option 'd' which according to him was the correct answer.

The learned State counsel has submitted that during pendency of the appeal, the State constituted a committee comprising of four members namely:-

- 1. Mrs. Baljeet Kaur, Subject Expert SCERT
- 2. Dr. Dilsher Kaur, DIET, Nabha (Patiala)
- 3. Dr. Raminderjeet Kaur, DIET, Gurdaspur
- 4. Dr. Buta Singh Sekhon, DIET, Ahmedpur (Mansa).

The report of the committee relating to question No.11 has been filed in Court today. According to the report of the Committee, option 'd' is the correct answer and the justification

for the same is as follows:-

"Puberty is a period of several years in which rapid physical growth and psychological changes occur, culminating in sexual maturity.

The average onset of puberty is at 10 or 11 for girls and age 11 or 12 for boys.

Girls have usually reached full physical development by ages 15-17 while boys usually complete puberty by ages 16-17 (source attached: <https://en.wikipedia.org/wiki/adolescence>)."

The option 'd' being accepted as correct answer, the grievance of appellant No.1 Raman Garg stands redressed and he is entitled to one mark for the correct answer to question No.11.

Learned counsel for the State has submitted that appellant No.1 would be entitled to 1 more mark and the same shall be duly given.

In view of the above statement and the appellant No.1 getting 1 more mark, his total marks comes to 90 in the PSTET-II. Therefore, he is eligible for consideration for appointment as Teacher for Classes VI to VIII.

In the circumstances, the appeal qua appellant No.1 Raman Garg is allowed. The judgment and order passed by the learned Single Judge is set aside and appellant No.1 is held entitled for consideration for appointment as Teacher for Classes VI to VIII.

The respondent-State shall revise the result of appellant No.1 by giving him benefit of 1 more mark in the PSTET-II paper.

The appeal qua appellant No.2 is dismissed as having been rendered infructuous.

There shall however be no order as to costs.

(S. S. Saron)
Judge

03.12.2015
vcgarg

(Amol Rattan Singh)
Judge

Note: Whether to be referred to the Reporter: Yes