

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

**1. Date of decision: 12.05.2016
CWP No.17438 of 2012 (O&M)**

Ombir and others

...Petitioners

versus

State of Haryana and others

...Respondents

2. CWP No.19379 of 2014 (O&M)

Sneh Lata

...Petitioner

versus

State of Haryana and others

...Respondents

3. CWP No.17518 of 2012 (O&M)

Manju Kumari and others

...Petitioners

versus

The State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

1. To be referred to the Reporters or not?

2. Whether the judgment should be reported in the Digest?

Present: Ms. Anu Chatrath, Senior Advocate,
with Mr. Rakesh Sobti, Advocate,
for the petitioners (in CWP Nos.17438 of 2012 & 19379 of
2014.

Mr. R.S. Hooda, Advocate,
for the petitioners (in CWP No.17518 of 2012).

Mr. Rajesh Gaur, Addl. A.G., Haryana.

RITU BAHRI, J.

This order will dispose of CWP Nos.17438 of 2012, 19379 of
2014 and 17518 of 2012 together as common questions of law and facts are
involved in all the petitions. For reference, facts are taken from CWP
No.17438 of 2012.

The petitioners are seeking quashing of the action of respondents
in not preparing the select list as per rules.

Pursuant to the advertisement dated 03.03.2012 (Annexure P-2),
applications for 544 posts of JBT Teachers (Urdu) for District Mewat were
invited. The petitioners, who are permanent residents of State of Haryana,
applied for the said posts as they were duly qualified. Necessary
qualification for the above said posts, as per Haryana Primary Education
(Group C) District Cadre Service Rules, 1994, as amended vide Haryana
Primary Education (Group C) District Cadre Service (Amendment) Rules,
2003, is reproduced as under:-

<i>Sr. No.</i>	<i>Designation of posts</i>	<i>Academic qualification and experience, if any, for direct recruitment</i>	<i>Academic qualification and experience, if any, for appointment other than by direct recruitment</i>
1.	XXX	XXX	XXX

Sr. No.	Designation of posts	Academic qualification and experience, if any, for direct recruitment	Academic qualification and experience, if any, for appointment other than by direct recruitment
2.	Junior Basic Trained Teacher.	(i) 10+2 from the Board of School Education, Haryana or its equivalent as recognized by the Board of School Education Haryana and (ii) Passed two years Junior Basic Training Course or Diploma in Education Training Course from Haryana Education Department or its equivalent recognized by the Haryana Government with special training in child psychology and behaviour of child upto the age of 12 years. (iii) Knowledge of Hindi upto Matric Standard. Note: (i) Preference will be given to candidates who possess knowledge of URDU upto Middle standard for posts of Junior Basic Trained Teachers for Gurgaon and Faridabad Cadres. However, such candidates, if selected shall serve in Mewat area (Education Blocks Hathin, Nuh, Ferozpur Jhirka, Punhana, Taoru and Nagina) only. (ii) Professional Training Diploma or Certificate awarded by any State, Board or University other than Haryana Education Department will be recognized only if this Diploma or Certificate have been recognized by the Haryana Government.	(i) 10+2 from the Board of School Education, Haryana or its equivalent as recognized by the Board of School Education Haryana and (ii) Passed two years Junior Basic Training Course or Diploma in Education Training Course from Haryana Education Department or its equivalent recognized by the Haryana Government with special training in child psychology and behaviour of child upto the age of 12 years. (iii) Knowledge of Hindi upto Matric Standard. Note: (i) Preference will be given to candidates who possess knowledge of URDU upto Middle standard for posts of Junior Basic Trained Teachers for Gurgaon and Faridabad Cadres. However, such candidates if selected shall serve in Mewat area (Education Blocks Hatin, Nuh, Ferozpur Jhirka, Punhana, Taoru and Nagina) only. (ii) Professional Training Diploma or Certificate awarded by any State, Board or University other than Haryana Education Department will be recognized only if this Diploma or Certificate have been recognized by the Haryana Government.

Thereafter, the State of Haryana further amended the above said rules vide notification dated 24.07.2008, called the Haryana Primary Education (Group C) District Cadre Service (Amendment) Rules, 2008. In Appendix B, against serial number 2, under column 3, for entry (iii), it has been substituted as under:-

“(iii) Matric with Hind/Sanskrit;

(iv) Certificate of having qualified School Teacher's Eligibility Test (STET).”

As per advertisement (Annexure P-2), essential qualification for the post of JBT (Urdu) was as under:-

“Educational Qualification:

Junior Basic Trained Teacher

1. The candidate should have passed the eligibility test. Those candidates who have passed 10+2 and Junior Basic Training (D.Ed. Urdu) from Haryana Education Department or its equivalent, the certificate/diploma issued by the recognized State Board/University of any other State will only be acceptable.
2. The candidate should have special training alongwith psychology and behaviour of the student upto the age of 12 years during the 2 year Junior Basic Course or Diploma in Education Training course conducted by the Haryana Education Department or its equivalent.
3. Knowledge of Urdu upto Matric standard. The diploma/certificate issued by State Board or University other than the State of Haryana in Vocational Training, will only acceptable if the same has been recognized by the State of Haryana.”

After amendment of the rules in 2008, matric with Hindi/Sanskrit and Certificate of having qualified School Teacher's Eligibility Test (STET) were essentially required. Pursuant to the advertisement (Annexure P-2), all the petitioners having possessed the above said qualification, submitted their applications. Application forms of some of the candidates, who had not cleared the HTET/STET from the State of Haryana, were rejected. Faced with the situation, they filed CWP No.7552 of 2012 (Man Mohan and another Vs. State of Haryana and others). The said

petition was disposed of by this Court vide order dated 18.07.2012 (Annexure P-4) in view of the clarification issued by the Financial Commissioner & Principal Secretary, Department of School Education, Haryana dated 10.05.2012 (Annexure P-5), considering the candidates who have passed the Teachers Eligibility Test (CTET) from the Central Board of Secondary Education, eligible for the post of JBT Teacher (Urdu).

As per advertisement (Annexure P-2), out of 544 posts, 251 posts were kept for General category, 107 for SC, 86 for BCA, 59 for BCB, 16 for PHC, 19 for ESM (Gen.). As per result, which was declared on 17.08.2012, only 73 candidates against total 544 posts JBT (Urdu) Teachers were shown to be selected.

Grievance of the petitioners is that against total 544 posts, only 261 candidates had applied and 233 persons were called for interview and out of them, only 73 candidates had been selected.

Upon notice, written statement on behalf of respondent Nos. 1, 2 and 3 has been filed, wherein it has been stated that a special recruitment of JBT Teacher (Urdu) for District Mewat was conducted as Urdu is the mother tongue of the majority of people residing there. All the candidates, who had passed JBT (Diploma in Education, Urdu)) from Haryana Education Department or its equivalent were eligible for the post of JBT (Urdu). The respondents are not disputing that the candidates, who had cleared the Central Teacher Eligibility Test (CTET) would be considered eligible as per clarification given by the Financial Commissioner & Principal Secretary, Department of School Education, Haryana dated 10.05.2012 (Annexure P-5). A Selection Committee was constituted to select the eligible candidates. The Selection Committee found that the petitioners could not read and write urdu

correctly and properly. Hence, they were not suitable for the post of JBT (Urdu). Despite the fact that the petitioners had got certificates of having studied Urdu at matric or higher level, they could not read and write Urdu properly, hence, the Selection Committee found them not suitable to the post of JBT Teacher (Urdu).

In the replication, the petitioners have given the details of the information received under the Right to Information Act, 2005 (RTI) giving details of the marks obtained by the selected as well as by the unselected candidates in the interview as well as in their written test/dictation.

Vide order dated 16.09.2014, the respondents were directed to produce in Court the attempted/dictation sheets that had been made by the selected candidates as also non-selected candidates as regards testing of their Urdu at the time of interview/viva-voce.

Relevant record has been produced in Court today. A perusal of the same shows that with respect to the selected candidates at serial Nos. 14, 15 and 17, their answer sheets on the third page were blank and on the reverse page, they have attempted the dictation. In this background, the information given under the RTI Act with respect to three candidates was not correct. After going through the result of the unselected candidates, it is apparent that all the candidates have been given 'zero' mark in the interview, even though they have attempted the dictation. A perusal of the result of the unselected persons shows that candidate at Serial No.9-Mohd. Jber was given dictation of 15 words and he had rightly attempted all the words, however, he has been given 'zero' mark in the interview. Even in the case of candidate at Serial No.1, namely Neeru Verma, out of 15 words, she had rightly attempted 14 words. She was also given 'zero' mark in the interview. Similarly, there

are instances of so many candidates, where more than 80% attempted words are right, but they have consistently been given 'zero' marks. On the other hand, in the case of selected candidates, only 1 word has been rightly attempted by the candidate mentioned at Serial No.1, namely Ali Sher, but he has been given 12 marks.

After going through the original record, the stand taken by the respondents in the written statement that the petitioners were not fund suitable for the post of JBT (Urdu) Teachers at the time of interview and viva-voce as they could not read and write Urdu properly, is liable to be rejected outrightly.

In spite of having 554 posts, only 233 persons had participated in the selection process and only 73 candidates were shown to be selected and 160 were found to be unsuitable initially. Two more candidates were selected in the 2nd instance. The Selection Committee has rejected all the candidates, who had acquired more than 80% marks in the dictation of Urdu words. A perusal of the marks given to the selected and unselected candidates shows that the selection process was not fair at all, as even the suitable candidates have not been selected who have got adequate marks in dictation of Urdu words. All the unselected candidates have been given 'zero' mark in interview. The selection process from the stage of interview requires to be carried out again.

Resultantly, all these petitions i.e. CWP Nos.17438 of 2012, 19379 of 2014 and 17518 of 2012 are allowed; the impugned selection process is set aside and a direction is given to the respondents to restart the selection process from the stage of interview by constituting a fresh Selection Committee. The selection process will be monitored by the Director Primary

Education, Haryana. A subject expert be included in the Selection Committee. However, Mr. Nasrudin Azhar, Associate Professor, Department of Urdu, YMD College, Nuh (Mewat) will not be associated in the selection process again. The selection process be initiated within a period of two weeks from the date of receipt of certified copy of this order.

12.05.2016
ajp

(RITU BAHRI)
JUDGE