

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

CWP No. 10590 of 2016 (O & M)

Date of decision: 02.06.2016

Gurmeet Kaur and another

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Mr. D.D. Bansal, Advocate,
for the applicant-petitioners.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 6920-CWP of 2016

Application for placing on record Annexure P-14 is allowed,
subject to all just exceptions.

The same is taken on record.

CWP No. 10590 of 2016

The petitioners seek appointment as ETT Teachers against the advertisement. It is their claim that they are entitled for consideration on account of higher qualification.

It is an admitted fact that the petitioners do not have the elementary teacher training requirement of two years from the Punjab State. 3522 posts were advertised vide public notice dated 09.11.2015 and the cut off date was 02.12.2015 (Annexure P-14). The educational qualifications prescribed read thus:-

“2. Educational Qualification:

(i) *Matric/10+2*

(ii) *Training/Elementary Teacher Training two*

years course of Punjab State or from any other State or Union Territory declared equivalent and recognized by the Punjab Government.

Apart from the above, candidates for the posts of ETT teacher are required to have passed Punjab State Teacher Training Test-i (P.S.T.E.T.-1).”

It is submitted that the petitioners are eligible and thus seek consideration on account of higher qualification.

The said claim is without any basis. The cut off date has already long passed, though it was extended after 02.12.2015 and even additional posts were brought in within the ambit of advertisement. Eventually, 4500 posts were to be filled up, which would be clear from the public notice attached with the above mentioned miscellaneous application. The petitioners had chosen not to agitate their rights prior to the cut off date and now thereafter, cannot raise any grievance at this stage when the selection process is at an advanced stage. It is not disputed that various candidates had earlier approached this Court seeking quashing of the cut off date on account of late holding of the PSTET-15, in which certain directions were issued by this Court in ***CWP No. 25773 of 2015, Harman Preet Singh Wadhwa and others vs. State of Punjab and others*** decided on 11.03.2016. The petitioners had chosen not to come to this Court at an earlier point of time and at this belated stage, the present writ petition is not maintainable.

Even otherwise, it is settled principle that it is for the employer to fix the required qualifications and the person cannot as such contend that the requisite qualifications should be of a particular nature. Reference can be made to the Full Bench judgment of this Court in ***Som Dutt vs. State of Haryana and another, 1984 (1) ILR (Punjab) 400*** wherein, it has been

held that the employer can insist on strict adherence to the prescribed minimum qualification and the applicant cannot insist for being considered for the post. The relevant observations read thus:-

“15. To conclude, the answer to the question posed at the out-set is rendered in the affirmative and it is held that where the qualifications for a post are spelt out by a statute, or precisely prescribed by the employer-State, it can insist on a literal adherence thereto irrespective of either an unprescribed equivalent or a higher academic qualification therefrom possessed by applicants seeking appointments to those posts.”

Similarly, the Apex Court in ***Union of India vs. Pushpa Rani and others, 2009 (1) SCT 267*** has held that policy decisions of the Government are not liable to be interfered with and the Court cannot sit in appeal over the judgment of the employer. The relevant portion reads thus:-

“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.”

Resultantly, this Court is of the opinion that there is no merit in the present writ petition and the same is dismissed.

02.06.2016
shivani

(G.S. SANDHAWALIA)
JUDGE