

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

**CWP No.11796 of 2015
Date of decision: 08.01.2016**

Meenakshi Malik and othersPetitioners

Versus

State of Haryana and othersRespondents

2. CWP No.12159 of 2015

Deepak Kumar and others Petitioners

Versus

State of Haryana and othersRespondents

3. CWP No.12710 of 2015

Bhajan Lal and another Petitioners

Versus

State of Haryana and othersRespondents

4. CWP No.12762 of 2015

Rajiv Kumar and others Petitioners

Versus

State of Haryana and othersRespondents

5. CWP No.12858 of 2015

Sunder Singh and others Petitioners

Versus

State of Haryana and anotherRespondents

6. CWP No.17411 of 2015

Babita	....	Petitioner
Versus		
State of Haryana and others	....	Respondents

7. CWP No.16515 of 2015

Renu	....	Petitioner
Versus		
State of Haryana and others	....	Respondents

8. CWP No.19385 of 2015

Mukesh Kumar	....	Petitioner
Versus		
State of Haryana and others	....	Respondents

9. CWP No.19414 of 2015

Pinki Devi	....	Petitioner
Versus		
State of Haryana and others	....	Respondents

10. CWP No.18840 of 2015

Mohan Lal and others	....	Petitioners
Versus		
State of Haryana and another	....	Respondents

11. CWP No.18859 of 2015

Jaideep Sharma and others	....	Petitioners
Versus		

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjay Kaushal, Senior Advocate
with Mr. Anurag Goyal, Advocate
for the petitioners.

Mr. Karamveer Singh Banyana, Advocate
for the petitioners (in CWP No.12858 of 2015)

Mr. Gautam Diwan, Advocate
for petitioners No.1 and 2 (in CWP No.11796 of 2015)
and for the petitioners.
(in CWP Nos.12710, 12159 and 17411 of 2015)

Mr. Pawan Singh, Advocate
for the petitioners (in CWP No.16515 of 2015)

Mr. Sushil Kamboj, Advocate for the petitioner
(in CWP No.19414 of 2015)

Mr. A.K. Ahuja, Advocate
for the petitioners (in CWP No.18859 of 2015)

Mr. Anurag Goyal, Advocate for the petitioners
(in CWP Nos.12762 and 18840 of 2015)

Mr. Ashwani Bhardwaj, Advocate for the petitioners
(in CWP No.19385 of 2015)

Mr. Pravindra Singh Chauhan, Addl. A.G. Haryana.

Mr. Girish Agnihotri, Senior Advocate with
Mr. Vijay Pal, Advocate for respondents No.5 to 16.
(in CWP No.11796 of 2015)

Mr. Rajiv Atma Ram, Sr. Advocate
with Mr. Arjun Partap Atma Ram, Advocate
for respondent No.17 (in CWP No.11796 of 2015)

Mr. Jasbir Singh Mor, Advocate
for respondent No.18 (in CWP No.11796 of 2015)

RITU BAHRI J. (Oral)

The petitioners have filed these civil writ petitions

under Article 226/227 of the Constitution of India for issuance of directions to the respondents for considering the candidates/petitioners for filling up the post of Primary Teachers being eligible and having qualified the test of Haryana Teachers Eligibility Test (hereinafter read as 'HTET') in the year 2011 and who are in the waiting list (Annexure P-9), prior to considering the candidates who have qualified the test after the cut-off date 08.12.2012.

The petitioners have qualified the HTET in the year 2011 and the same is valid for five years i.e. upto 2016. Respondent No.3 i.e. Haryana School Teachers Selection Board, had notified 8763 posts of Primary Teachers (PRT) including 346 posts for backlog of PH (B/L) under category No.1 and 1107 posts of Primary Teachers (PRT) incurred 44 posts for backlog of PH (B/L) category as per the advertisement No.2/2012 dated 08.11.2012 (Annexure P-7).

The petitioners had participated in the test in the year 2011 and they were found eligible for the aforesaid posts and their names have been appeared in the Merit Wise Recommendation List and Selection List Merit Wise (Annexures P-8 and P-9). In the meantime, the candidates who have qualified the HTET test after the cut-off date and who are no even eligible for the posts advertised on 08.11.2012 have filed a civil writ petition and thereafter about 110 writ petitions were filed by number of other

candidates challenging the advertisement dated 08.12.2012 and Clause 2(ii) of Rule 7 (Appendix B) of Haryana Primary School Education (Group C) District Cadre Service Rules, 2012.

Thereafter, the main case i.e. **CWP No.346 of 2013** titled as “*Antim Kumari vs State of Haryana and others*” alongwith other bunch of cases was dismissed by the Division Bench of this Court vide order dated 29.04.2015 (Annexure P-10) on the assurance of the State Authorities that the candidates who have qualified the State Teachers Eligibility Test after the cut-off date for submission of the applications i.e. 08.12.2012, subsequently in 2013, then they were to be considered for appointment in the said selection process. The grievance of the petitioners are that as they were in the waiting list (Annexure P-9) so, they have a right for appointment prior to the selected candidates who were shown in the list (Annexure P-8).

The Division Bench at the time of disposal of writ petition (Annexure P-10) had dismissed the writ petition *qua* Set Nos.2 and 3. Thereafter, the petitioners, who were named in Set Nos.2 and 3 had preferred Special Leave Petition Nos.13149 to 13158 of 2015, before the Hon'ble Supreme Court and their SLP was dismissed vide order dated 24.07.2015 (Annexure R-17/1). The present petitioners had made an application for reviewing the order of Division Bench and their application was dismissed vide order dated 29.05.2015. Since, that application was dismissed, the

present writ petitions have been filed seeking appointment prior to the selected candidates.

A perusal of the judgment (Annexure P-10) shows that counsel for the State had made a statement that there were sufficient number of vacancies available for candidates named in the waiting list as well as for the candidates who had passed the eligibility test in the year 2013 and in this way, the claim of the petitioners as well as selected candidates can be accommodated. This permission was granted by Division Bench in view of the communication dated 20.04.2015, to appoint all the candidates i.e. the petitioners out of the waiting list as well as selected candidates.

Learned counsel for the State in order to clarify the number of vacancies available has placed on record the affidavit of R.S. Kharb, Director Elementary Education Haryana, Panchkula in CWP No.11796 of 2015.

A perusal of this affidavit shows that at present, as per, Management Information System (MIS) data, there are 16254 posts of Primary Teachers are lying vacant in the Department. The Department has 44215 sanctioned posts of Primary Teachers including Head Teachers in the year 2014-15. It is further mentioned in the affidavit that Category No.1 belongs to District Cadre posts, except District Mewat, and there are total 8763 posts advertised for Primary Teachers.

Keeping in view the above facts and circumstances,

this Court is of the considered opinion that all the petitioners who are in the waiting list (Annexure P-9) along with selected candidates (Annexure P-8), are ordered to be accommodated. However, the question of *inter se* seniority shall remain open after the present petitioners/candidates join the posts.

Disposed of, accordingly.

(RITU BAHRI)
JUDGE

08.01.2016
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