

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18565 of 2012
Reserved on:23.02.2016
Decided on :16.03.2016

Ashok Kumar & others

... Petitioners

Versus

State of Punjab & others

... Respondents

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

Present: Mr. B.S.Bajwa, Advocate for the petitioners.

Mr.Avinit Avasthi, AAG, Punjab.

G.S. Sandhawalialia , J.

Petitioners seek consideration for the post of Master Cadre, against the advertisement issued on 07.05.2011 (Annexure P2) and challenge the criteria laid down in the notice dated 24.07.2012 (Annexure P4) wherein only candidates who had cleared the Punjab State Teachers Eligibility Test, (for short, 'PSTET') were being called for counselling and the candidates who had acquired the Central Teachers Eligibility Test (for short, the 'CTET') were not eligible.

The case of the petitioners is that they had applied for the post of Master Cadre, on the basis of the above-said advertisement, in their respective fields, since 3442 posts of Master Cadre had been advertised. As per the terms of the advertisement, the passing of the Teachers Eligibility Test (for short, the 'TET') under the guidelines of the National Council for

Teachers Education (for short, the 'NCTE') was mandatory. The cut-off date was 30.05.2011. The State had got conducted the Test for the first time on 03.07.2011, after the cut-off date and the result was declared on 30.07.2011.

In view of the orders passed by this Court in CWP-21301-2011 titled *Gurjinder Singh Vs. State of Punjab & others*, decided on 13.02.2012, wherein it had been directed that since the cut-off date was 30.05.2011 and the Test was being conducted on 03.07.2011 and the result was to be declared on 30.07.2011, the authorities should look into the matter and take appropriate decision, within 2 months. The advertisement dated 24.07.2012 had been published wherein only those candidates who had cleared the State Test were eligible. The petitioners having cleared the CTET held on 05.05.2012, the result of which was declared on 29.05.2012, were eligible to apply but were not being called for counselling.

State, in its written statement, has defended the action on the ground that since the State TET had been held, therefore, the petitioners were not eligible to be appointed. The guidelines of the NCTE were merely directory and the petitioners were not eligible as they had passed the TET from the CBSE.

Counsel for the petitioners has, thus, argued that once the State Test had not been held, the petitioners, having passed

the CTET, conducted by the Central Government, were entitled to apply against the said vacancies.

State Counsel, on the other hand, placed reliance upon the Division Bench judgment of this Court in CWP-346-2013 titled *Antim Kumari Vs. State of Haryana & others*, decided on 29.04.2015.

In the considered opinion of this Court, the matter stands squarely covered against the petitioners, by the judgment of the Division Bench, since, admittedly, they have not passed the State Test. In view of the directions issued by this Court on 13.02.2012 in CWP-21301-2011 titled *Gurjinder Singh Vs. State of Punjab & others*, the State gave an opportunity to those candidates to apply who had passed the State Test, even after the cut-off date. The petitioners do not fall in that category, having not passed the State Test and the cut-off date was, thus, accordingly, extended for candidates who had passed the PSTET-2. The Division Bench in Antim Kumari's case (supra) had occasion to consider the issue and had framed the following question:

“(ii) Whether the candidates who have qualified CTET during the year 2012 when no STET was held, are entitled to claim eligibility for the advertised posts in terms of guidelines issued by NCTE?”

Thereafter, the said question was answered in the negative, against the candidates, by holding that it was mandatory to have passed the State Test. Relevant portion of the reasoning

reads as under:

“We have already noticed above that as per Section 23 of the RTE , a person to be appointed as a teacher in an elementary school is required to possess such minimum qualification as is prescribed by the academic authority to be notified by the Central Government. The National Council for Teachers Education has been notified as such authority by the Central Government. Vide notification dated 23.08.2010 issued in accordance with Section 23(1) of the RTE Act, the National Council for Teachers Education specified that passing of a teachers eligibility test to be conducted by the appropriate Government would be one of the essential qualifications for a person to be eligible for appointment as a teacher in classes I to VIII.

As per Section 2 of the RTE Act, the State Government is the appropriate Government in relation to a school established within the territory of the State Government other than a school established, owned or controlled by the Central Government. Thus, for recruitment of Primary Teachers for State Government Schools, the State Government is the appropriate Government. And as prescribed by the NCTE, which is the academic authority in terms of the mandate of the RTE Act, passing of a teachers eligibility test to be conducted by the State Government is one of the essential qualifications for eligibility for appointment as Primary Teacher. The NCTE has in its affidavit referred to above clarified that the guidelines relied upon by the Ld. Counsel for the petitioners are directory in nature.

Thus, there is no force in the argument of the Ld. Counsel for the petitioners that as HTET test was not conducted in the year 2012, the petitioners should be held eligible on the basis of their having qualified the CTET. The petitions in this set are thus dismissed.”

Resultantly, once the State had conducted the Test and as noticed, the date for applying had been extended for candidates who passed the PSTET, 2011, the petitioners cannot seek any right of consideration, on the basis of having passed the CTET but not having passed the PSTET, 2011.

Accordingly, in view of the above discussion, the present writ petition is dismissed.

MARCH 16, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE