

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

Date of decision:12.1.2016

CWP No.14900 of 20014

Shakti Manro		... Petitioner
	Versus	
State of Punjab & anr.		... Respondents

CWP No.14994 of 2014

Munish Kumar		... Petitioner
	Versus	
The State of Punjab & ors.		... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Madhav Pokhrel, Advocate,
for the petitioner.

Mr. Nikhil K. Chopra, DAG, Punjab.

Mr. Arun Jindal, Advocate,
for respondent No.3 (in CWP No.14994 of 2014).

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of above two cases bearing CWPs No.14900 and 14994 of 2014 as common questions of law and fact are involved in them which can conveniently be decided by a common order. The facts are taken from CWP No.14900 of 2014 for the sake of convenience.
2. The moot issue relates to the disputed experience certificate issued by Om Parkash Bansal Modern School, Mandi Gobindgarh in favour of the petitioner. The experience certificate refers to work done in conducting sports classes since April 4, 2005 onwards from classes 6th to

10th. The petitioner's candidature for the post of Head Master has been rejected by recording the following reasons against the name of the petitioner falling at Sr. No.214 in the list of ineligible candidates.:-

“i. Candidate worked as PRT grade which is not eligible, requirement is of TGT/PGT.

ii. Experience certificate is as PRT signed by DEO (classes taught 6th to 10th).”

3. The petitioner has approached this Court against these remarks stating that they are unfounded. He assails the merit list dated May 19, 2014 (Annexure P-7) rejecting the candidature of the petitioner for the post of Head Master for lack of requisite experience rendering him ineligible for the post. The advertised criteria for the selection process prescribed in general condition No.4 is that the experience required was to teach school from 6th to 12th class as Master/Mistress or Lecturer of School Cadre from any Government School/non-Government Aided School, recognized from CBSE/ICSE/PSEB or other School Education Board or equivalent thereto affiliated with the Education Board.

4. In the counter affidavit filed by the State, it has been explained that the petitioner does not possess the requisite experience of teaching school from 6th to 10th Class as he possesses teaching experience of 8 years, 7 months and 23 days as Primary Teacher (PRT) from April 4, 2005 till November 27, 2013 i.e. till last date of submission of applications. The curriculum and nature of work from 6th to 12th class of school level education is entirely different from the curriculum and environment prevailing in the primary schools. The candidate having primary level or “irrelevant experience” would be unable to justify

holding the post of Head Master/Mistress, if selected. Therefore, the experience which the petitioner has obtained in Primary School cannot make him eligible for the post of Head Master/Mistress. It has been further explained that the advertised posts in question belong to the Rashtriya Madhyamik Sikhiya Abhiyan Authority Punjab, which is a Central Government sponsored scheme. The said posts are not governed by the Punjab State Education, Class III (School Cadre) Service Rules, 1995. These posts stand outside the Rules and are to be filled on the basis of the terms and conditions of the advertisement. The State has still further explained that the Punjab State Education Class III(School Cadre) Service Rules, 1978 as amended in 1995 do not prescribe that the teaching experience from Primary Schools can be considered essential. The recruitment process for the post of Head Master/Mistress has thus to be regulated by the qualifications/eligibilities as prescribed in the advertisement dated October 3, 2013. The State relies on the Division Bench decision of this Court delivered in LPA NO.302 of 2012 titled 'Harjeet Kaur v. State of Punjab & ors.', which case related to the Sarv Sikhia Abhiyan Samiti.

5. I fail to see how the case relied upon by the petitioner in LPA No. 1988 of 2011 (State of Punjab & ors. vs. Priya Mahajan & ors.), decided on 16.1.2013 can be of any help to him. The present issue was not before the appellate Bench when it decided *Priya Mahajan* case.

6. If writing the acronym PRT was a result of mistake committed by the petitioner in a cyber cafe while filling in the application form online is to be given credence, as insisted by the Mr. Pokhrel

appearing for the petitioner that it should, it still does not bridge the requisite experience advertised. Counsel submits that the petitioner was paid salary showing him as a PRT teacher by the private management but had actually discharged teaching duties of higher responsibility in the subject field is not an argument worthy of acceptance by the court. The petitioner has not substantiated proof of possessing prescribed qualification in the advertisement by direct evidence. I am, therefore, unable to interfere in the matter. The representation of the petitioner dated March 14, 2014 explains that his school had allotted classes 6th to 10th for teaching but the pay was given to him of PRT teacher is inexplicable and the same cannot be said to be an admitted position for a mandamus to issue in writ jurisdiction. To prove the point evidence would need to be adduced which is not the scope of Article 226 of the Constitution.

7. However, regarding objection as to passing one year M.P.Ed. course is concerned for which weightage is to be given towards the criteria adopted for selection, I would say that the objection may stand removed by the good explanation offered in the representation submitted by the petitioner that he passed the M.P.Ed. Degree from the Guru Nanak Dev University, Amritsar in the year 2002 when it was a course of one year duration and it was only when the Academic Council of India decided the issue on March 7, 2007 that the candidates who had passed M.P.Ed. before 2006 [when it was a course of one year duration] then both the one year and the present two year course would be equivalent. This anomaly was resolved when the one year course was converted to a two years. However, even if this objection is read in favour of the

petitioner, even then the first and most vital issue regarding PRT still stares blankly in the face of the record and would not, when accepted, materially alter the decision in favour of the petitioner. It subsumes in the failure of the principal argument making relief inadmissible to grant.

8. Accordingly, both the petitions are dismissed finding no merit in them which might warrant interference.

(RAJIV NARAIN RAINA)
JUDGE

12.1.2016
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