

CWP No.17854 of 2016

#1#

Manoj Kumar
2016.12.22 17:26
I attest to the accuracy and
integrity of this document

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

1. CWP No.17854 of 2016

Dilshad Ali and Ors.

....Petitioners

Vs.

State of Punjab and Ors.

....Respondents

And

2. CWP No.18031 of 2016

Sandeep Kaur and Ors.

....Petitioners

Vs.

State of Punjab and Ors.

....Respondents

Date of decision: **05.09.2016**

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

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

Jaswant Singh, J

This order shall dispose of aforesaid two writ petitions since common questions of law and facts are involved in the same. For the sake of convenience, facts are being extracted from CWP No.17854 of 2016.

Four petitioners, who are aspirants for appointment against 3522 posts of ETT Teachers advertised vide advertisement dated 09.11.2015 (P.3) (petitioner Nos.1 & 2 are from Backward Class Category whereas petitioner Nos.3 & 4 are Persons with Disabilities) have filed this writ petition for quashing the objections/remarks raised against them in the merit list dated 27.5.2016 (P.11) with further prayer for considering their

candidature for the post of ETT Teachers being duly qualified.

It is contended by learned counsel for the petitioners that the candidature of the petitioners have been rejected only on the ground that they do not possess the essential qualification of two years Elementary Teachers Training Certificate (for short "ETT"). It is further argued that all the petitioners rather possess higher degree in the same line i.e Bachelor of Arts (Graduation Level) along with B.Ed, and thus the action of the respondents while recording the impugned objections/remarks is wholly unsustainable and liable to be set aside.

Heard learned counsel for the petitioners and perused the paper book with his able assistance.

There is no dispute that an Advertisement dated 09.11.2015 (P.3) for recruitment of 3522 posts of ETT Teachers was issued and break up of the posts was mentioned therein. It is necessary to mention here that subsequently by way of Corrigendum dated 13.1.2016, the posts were increased to 4500 and break up of the posts was also modified. The Educational Qualification as prescribed in the Advertisement for the posts in question remained the same, which reads as under:

"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 equivalent and recognized by Punjab government.***

In addition to the above mentioned qualification it mandatory top pass the PSTET-I (Punjab State Teachers eligibility test paper-I) under RTE Act, by the

candidates for the post of ETT teachers."

The petitioners applied against their respective categories and after consideration of the same, their candidature have been rejected by the Scrutiny Committee by way of impugned merit list dated 27.5.2016 (P.11) in the following terms:

"AMANDEEP SHARMA	HANDICAPPED (ORTHO)	ETT NOT DONE.HANDICAP CERTIFICATE NOT VERIFIED.
DILSHAD ALI	BC	ETT NOT DONE, B.ED. DONE
PARMINDER KAUR	HANDICAPPED (ORTHO)	ETT NOT DONE
SHAMIM	BC	CANDIDATE HAS PASSED B.ED NOT ETT"

There is no dispute that by way of public notice dated 27.5.2016, all the candidates were required to submit their representations along with proofs, if any to the objections raised against them by 2.6.2016 upto 5.00 PM in the office of Education Recruitment Directorate, Govt. Model Senior Secondary School, (Microsoft Building Phase-3B1, SAS Nagar, Mohali. It was made clear in the said notice that after 02.06.2016 no representation would be considered. A perusal of paper book reveals that the petitioners filed their objections, which were duly considered and thereafter the final result of the selected candidates (categoriwise) was declared on 22.8.2016 **(P.15)** and the same is neither challenged; nor the selected candidates have been made party respondents for the reasons best known to the petitioners. Therefore, when the final result of the selection is already declared, then at this stage, there is no justification to entertain the present writ petition against the rejection of the candidature of the petitioners vide Annexure P.11.

The argument that the petitioners are having higher

qualification than the minimum prescribed for the posts in question is not acceptable in view of the fact that the the post of ETT was meant for teaching the classes I to V standard in the primary schools and the essential qualification is prescribed under the Punjab state Education Class III (Primary School Cadre) Service rules 1997 (for short "1997 Rules"); whereas the higher qualification as claimed by the petitioners is meant for the Masters Cadre, who teach the classes from VI to VIII standard and the same is prescribed under separate set of Rules of 1995. The cadre of both the posts i.e ETT and Masters are entirely different and separate although falls in the Elementary Wing of Education from Classes I to VIII as per the National Council for Teachers Education Guidelines. The Elementary Wing is further divided into two parts i.e Primary (from I to V standard) and Upper Primary (from VI to VIII standard). For administrative control of primary wing, there is a separate Directorate known as Elementary Directorate in the State of Punjab. Similarly, for Upper Primary Education, who are manned by Masters, are under the administrative control of Director of Public Instructions (Secondary Education), Punjab and they cannot be deputed to teach the classes from I to V and similarly, the ETT Teachers also cannot be deployed to teach the classes from VI to VIII standard. Therefore, the educational qualification prescribed for the post of ETT is certainly having the relevance and cannot be ignored and thus, the petitioners' claim in the absence of possessing the essential qualification, merely on the basis of higher qualification is not acceptable and liable to be rejected. Even otherwise, this proposition of law is well settled by

a Division Bench of this Court in **CWP No.17467 of 2010** titled **Ritesh Dutta and Others Vs. State of Haryana and others,** **decided on 13.7.2011,** the concluding paragraphs of the same reads as under:

"Basic Teachers Training Programme of two years duration is necessary. B.Ed is no substitute for such a course. In the absence of necessary qualification with the petitioners there is no possibility of finding any fault with the impugned notifications dated 30.8.2010 (P.5) and 17.9.2010 (P.6). The petition does not merit admission. Accordingly the writ petition is devoid of merit and the same is hereby dismissed."

In view of the aforesaid discussion, this Court finds no merit in the present petition and the same is dismissed.

September 05, 2016
manoj

(JASWANT SINGH)
JUDGE