

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) Civil Writ Petition No.24431 of 2013

Monisha Mehta and others Petitioners
Versus
State of Punjab and others Respondents

2) Civil Writ Petition No.27691 of 2013

Mohd. Yaqub and another Petitioners
Versus
State of Punjab and others Respondents

3) Civil Writ Petition No.27839 of 2013

Aman Deep Kaur Petitioner
Versus
State of Punjab and others Respondents

4) Civil Writ Petition No.3659 of 2014

Deepty Thakur Petitioner
Versus
State of Punjab and others Respondents

5) Civil Writ Petition No.3662 of 2014

Deepika Petitioner
Versus
State of Punjab and others Respondents

Date of Decision: 22.11.2016

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Ms. Alka Chatrath, Advocate for the petitioner(s)
(in CWP No.24431 of 2013).

Mohd. Yousaf, Advocate for the petitioner(s)
(in CWP No.27691 of 2013).

Mr. R.K.Chopra, Senior Advocate assisted by
Mr. Pawan Kumar and Ms. Gagandeep Kaur, Advocates
for the petitioner(s) (in CWP No.27839 of 2013).

Mr. Pawan Kumar Goklaney, Advocate for the petitioner(s)
(in CWP Nos.3659 and 3662 of 2014).

Dr. Puneet Kaur Sekhon, Additional Advocate General, Punjab
for respondent No.1/State.

Mr. Anupam Singla, Advocate and
Mr. Arshdeep Bhullar, Advocate for
Mr. Ravi Inder Singh, Advocate for respondent Nos.2 & 3.

JASWANT SINGH, J. (Oral)

This common order shall dispose of the aforesaid five writ petitions as the facts involved therein are identical for adjudication. For the sake of convenience, with the consent of the parties, the facts are adopted from CWP No.24431 of 2013.

The Rashtriya Madhyamik Shiksha Abhiyan Authority, Punjab (hereinafter referred to as “RMSA”) [respondent No.3] is a Society, registered under the Societies Registration Act, 1860, established under a Scheme floated by the Govt. of India for universalizing the secondary education in the respective States. The funding under the Scheme is in the ratio of 75:25 between the Government of India and the respective States. The Society supplements the resources of the Department of Education by way of employing Teachers, as also identifying students, who have neither gone to the School or are drop-outs to bring them back to the Classrooms. They at times also provide additional infrastructure to the existing Schools, run by the Department of Education, Govt. of India.

In the present cases, an advertisement dated 22.10.2012 (**Annexure P-2**) was issued for recruitment to 222 posts of Head Masters/Head Mistresses, to be posted in the upgraded Schools/High Schools, funded by the RMSA. The petitioners undertook the selection process and their names were included in the final Merit List, circulated on 07/26.03.2013 (**Annexure P-4**).

2013, thereby intimating that the selection process undertaken pursuant to the advertisement (**P-2**) stood cancelled. Soon thereafter, a fresh advertisement was issued on 01.10.2013 (**Annexure P-7**), whereby 264 posts of Head Masters/Head Mistresses (including the 222 posts advertised earlier) and 764 Teachers subject-wise for the High Schools, run by the RMSA, to be filled up on contract basis were advertised. Hence, the present set of writ petitions were filed by the erstwhile selected candidates challenging the Public Notice (**P-6**) canceling the previous selection process; the advertisement dated 01.10.2013 (**P-7**) and also seeking a mandamus for issuance of appointment letters based on the select list dated 07/26.03.2013 (**P-4**).

The primary grounds of challenge are that the action of abandoning the previous selection suffers from legal *mala fide* and the fresh advertisement has been issued with the changed criteria by adding 10% marks for interview so as to favour the favourite candidates.

Upon notice, the contesting RMSA (respondent No.3) has filed its reply. In the reply, it is asserted that the RMSA Society (respondent No.3) in the light of objections filed by the candidates that the prevalent prescribed statutory qualifications for recruitment to the post of Head Master/Head Mistress were not being followed while making recruitments, a decision was taken on 22.08.2013 to withdraw the previous selection process and issue a fresh advertisement, in consonance with the statutory qualifications prescribed for the post of Head Master/Head Mistress as per the Punjab State Education Class III (School Cadre) Service Rules, 1978, as amended vide amendment dated 08.07.1995 (**Annexure R-3/1**). Accordingly, a fresh advertisement by incorporating the amended statutory basic qualifications was issued and the candidates, who had earlier applied pursuant to advertisement (**P-2**), were

granted exemption in age, in the terms as notified.

It is submitted that in the selection process undertaken pursuant to the fresh advertisement, a provision for 10 marks of interview has been mentioned so as to judge the quality of the candidates and as such, the same cannot be termed as arbitrary. It is further submitted that pursuant to the advertisement (P-7), the selection process is over and the persons have been appointed. In fact, some of the petitioners probably have also been appointed under the fresh selection process.

The qualifications notified as per P-2 and as per the statutory Rules incorporated in the advertisement (P-7) along with the faults found in the previous advertisement (P-2) as recorded in the Note are reproduced as under:-

<i>Number and Name of the Post</i>	<i>Eligibility and other conditions as per the advertisement dated 22.10.2012 (P-2)</i>	<i>Eligibility and other conditions as per the advertisement dated 01.10.2013 (P-7)</i>
	Punjab State Education Class III (School Cadre) Service Rules, 1978	Punjab State Education Class-III (School Cadre) Service (1st Amendment) Rules, 1995.
222 Head Masters/ Mistresses	1. Basic Qualification or equivalent qualification i) B.A./B.Sc./B.Com. (minimum 50% marks) and B.Ed. (minimum 55% marks). ii) Education Qualification is to be from the University affiliated to UGC. 2. Experience Minimum 7 years experience as Master/Lecturer. This experience has to be from the school affiliated to Govt./Aided/ICSE/CBSE or PSEB as S.S./Science/Commerce/Maths/Hindi/Punjabi/English Teachers/Lecturers. This experience certificate is to be issued by the Head of the School and is to be counter-signed by the concerned Distt. Education Officer (Secondary Education). *The experience certificate will be verified before appointment, if the candidate submits forge/wrong certificate, his candidature will be cancelled and legal action will be taken.	Degree of recognized University with B.T. or B.Ed. or Senior Basic Training with following experience:- i) In case of M.A. or M.Sc. with M.Ed. - Six years. ii) In case of M.A. or M.Sc. with B.T./B.Ed. - Seven years. iii) In case of B.A. or B.Sc. or B.Com. with B.T. or B.Ed. - Eight years. iv) In case of D.P.Ed. or B.P.Ed. Eight years from the date of physical education was introduced compulsory in the schools. Note: 1) Besides above, there was no clear cut instruction for the candidates regarding experience as Lecturer in Colleges. 2) The instructions regarding counter-signing of Experience Certificate by competent authority were missing as to who would be competent authority to counter-sign Experience Certificates issued by the ICSE/CBSE/PSEB.

Learned Counsel for the petitioner(s), in the light of the reasons given for withdrawing the previous selection process qua advertisement (P-2), do not seriously press the argument as decision of the RMSA to follow the laid down qualifications as per amendment of 1995 in the statutory Rules, 1978 for recruitment of the Head Masters/Head Mistresses or Teachers cannot be held to be motivated or arbitrary as the recruited Head Masters/Head Mistresses/Teachers are posted at Government run Schools. The ancillary argument regarding changing of criteria at whims and fancies is repelled in the light of the explanation tendered on behalf of the RMSA that at the time of earlier selection, the recruitment with different criterion was made to the Schools, which had CBSE Affiliations and not with the Punjab School Education Board, as is the case in the present advertisement.

Learned Counsel for respondent No.3-RMSA has assured the Court that in future adherence to the Recruitment Rules in the light of the decision of Board of Directors dated 22.08.2013 would be sincerely followed.

Since the selected candidates do not have indefeasible right of appointment, therefore, in the light of the aforesaid argument qua seeking the quashing of fresh advertisement and a mandamus for their appointment thus stands rejected. The petitioners, by providing age relaxation, have been given a chance for competing for recruitment against the posts pursuant to advertisement P-7 and some of them have also been probably selected and appointed.

In view of the above, all the present petitions stand dismissed.

November 22, 2016

(JASWANT SINGH)
JUDGE

Gagan

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No