

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25773 of 2015(O&M)
Reserved on:26.02.2016
Decided on :11.03.2016

Harman Preet Singh Wadhwa & others

... Petitioners

Versus

State of Punjab & others

... Respondents

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

Present: Mr. R.K.Chopra, Sr. Advocate with
Mr. Parvesh Saini, Advocate,
Mr. R.K.Malik, Sr. Advocate with
Mr. Vijay Dahiya, Advocate for the petitioners.

Mr. Aman Bahri, Addl. AG, Punjab.
Mr.Avinit Avasthi, AAG, Punjab.

Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Anurag Goyal, Advocate
for respondents No.4 to 30 and
for the applicants in CM No.16515 of 2015.

Mr. Vikas Chatrath, Advocate
for respondents No.31 to 33 and
for the applicants in CM No.16733 of 2015.

Mr. Vinod S. Bhardwaj, Advocate,
Ms. Neeru Thakur, Advocate and
Mr. Parveen Kumar, Advocate
for respondents No.34 and 35 and
for applicants in RA No.496 of 2015.

Mr. Puneet Gupta, Advocate and
Mr. Kunal Mulwani, Advocate
for respondents No.44 to 46.

G.S. Sandhawalia , J.

Petitioners seek quashing of the last cut-off date stipulated in the public notice dated 09.11.2015 (Annexure P4), for receipt of on-line applications for 3522 posts of ETT Teachers in the State of Punjab.

Prayer is made on the strength of the fact that the Teachers Eligibility Test had not been conducted within a period of 1 year and therefore, the test which was to be held on 13.12.2015 would enable several candidates to become eligible and allow them to participate in the selection process. As per the said advertisement, apart from the educational qualifications of Matriculation/10+2 and 2 years' Elementary Teachers Training Course, the mandatory requirement was that the candidate should have passed the PSTET-I, conducted by the State Government, under the Right to Education Act, 2010. The cut off date was fixed as 02.12.2015. Relevant portion of the educational qualifications requirement are as under:

“2. Educational Qualifications.

i) Matric/10+2

ii) Training/Elementary Teachers Training two years course of Punjab State or from any other State or Union Territory declared equivalent and recognized by the Punjab Government.

In addition to the above mentioned education qualifications, the candidates must have passed the Punjab State Teachers Eligibility Test-I (P.S.T.E.T.-I) under RTE Act as conducted by Govt. of Punjab.

3. Mode of Selection:

The Final merit list of the eligible candidates will be prepared of the candidates fulfilling the educational qualification/professional qualification and other conditions on the basis of the marks obtained by candidates in Punjab State Teachers Eligibility Test-I (P.S.T.E.T.-I).

Note:- If more than one candidate secures the equal marks in the Punjab State Teachers Eligibility Test-I (P.S.T.E.T.-I), then in that eventuality, candidates older in age shall be

higher in merit and if the age of candidates is also equal, then candidates having higher percentage of marks in ETT shall be placed higher in merit.”

As per Clause 7(ix), the posts mentioned in the advertisement could be increased or decreased by the Government. Same reads as under:

“7.

xxxx xxxx xxxx

(xi) The posts mentioned in the advertisement can be increased or decreased by the Government.

xxxx xxxx xxxx

Important Note :

Candidate's all the certificate educational/professional qualifications and category certificates, SC, BC, LDC, Sports gradation, handicapped & freedom fighter & other important certificates should be issued by the competent authority before the last date 02.12.2015 of submission of on line application forms. Certificate issued after 02.02.2015 will be rejected by the department.

xxxx xxxx xxxx

Compulsory Mode :

The candidates first apply for online registration and the last date is 02.12.2015 (5.00 PM evening). Registration is the last date of submission of application. After getting himself registered, the candidate shall deposit the prescribed fee. After the depositing of the fee in the bank and after confirmation of fee deposited, the applicant can fill his online application form and the last date for the same is 07.12.2015 by 5.00 PM in the evening.”

The State had issued as many as 5 advertisements through the State Recruitment Board, wherein the following number of posts were to be advertised, apart from the ETT Teachers in November, 2015:

- “(i) 1200 posts of Math Masters/Mistresses
- (ii) 1000 posts of Punjabi Masters/Mistresses
- (iii) 350 posts of Hindi Masters/Mistresses
- (iv) 1800 posts of Science Masters/Mistresses
- (v) 1500 posts of Social Studies Masters/Mistresses.”

The cut-off date had been fixed as 12.12.2015, as per the advertisements. The grouse of the petitioners, in those cases, was similar to that of the petitioners, that the test was being held after almost a period of 1 ½ years and a large number of aspirants would be left out. Resultantly, despite the opposition of the State, this Court was of the opinion that it would be unfair to deprive such a large number of aspirants to a large number of public posts, which were sought to be filled up after so long. Accordingly, directions were issued to extend the cut-off date in these cases from 12.12.2015 for a period of 2 weeks beyond the declaration of the result of the PSTET, which was to be held on 13.12.2015. Persons who would qualify in the said tests were to apply within a period of 2 weeks from the date of declaration of the result. Relevant part of the order dated 10.12.2015 in CWP-25249-2015 titled *Mandeep Kaur and Others Versus State of Punjab and Others* & other connected cases, reads as under:

“A perusal of the judgment of the Division Bench would also go on to show that in the said case also, a similar issue arose since the State of Haryana had failed to hold the test in the year 2012. An advertisement was issued on 08.11.2012 for appointments which had a cut-off date of 08.12.2012. The test was only held on 26.06.2013, after almost a period of 2 years, since the earlier test was

held on 30.07.2011. The Division Bench, in the meantime, vide interim order dated 27.08.2013, permitted the petitioners who had passed the test in the year 2013, i.e., after the cut-off date, to be interviewed provisionally. Eventually, the State Government, in that case also, vide letter dated 20.04.2015, granted its approval to consider those cases for appointment who had sat in the test subsequently and became successful. In such circumstances, the observations of the Division Bench rather do not support the State, as even the Division Bench had protected the interests of the candidates on account of non-holding of the test.

Thus, in the considered opinion of this Court, it would be unfair to deprive such a large number of aspirants to the large number of public posts which are sought to be filled up.

In such circumstances, this Court is of the opinion that it would be appropriate if the cut-off date of 12.12.2015 is extended for a period of 2 weeks beyond the declaration of the result of the Punjab State Teachers Eligibility Test, which is to be held on 13.12.2015. A direction is further issued to the State that the result of the test held on 13.12.2015 be declared expeditiously and preferably, within a period of 4 weeks from the holding of the test. The persons who qualify in the said test, would be entitled to apply, within a period of 2 weeks from the date of the declaration of the result.”

The grouse of the petitioners to the said posts being similar as in CWP-25249-2015 along with another 4 cases, came up on 10.12.2015 (corrected from 12.12.2015) and an interim direction was issued in the same terms. The only difference in the present case is that the petitioners filed the present petition on 05.11.2015, i.e., after the cut-off date, which was 02.12.2015 and the case was listed, for the first time, on 09.12.2015 and thereafter,

the interim order in the same terms as in CWP-25249-2015, was passed on 11.12.2015.

In pursuance of the said directions, the State issued public notice on 14.12.2015 (Annexure R4) wherein only those candidates could apply to the concerned posts for recruitment within 2 weeks, who had passed the test which was held on 13.12.2015. The notice reads as under:

“Public Notice

That the Education Recruitment had invited to apply on line on the department website www.educationrecruitmentboard.com for recruitment of 3522 E.T.T. Teacher Posts upto 2-12-2015 till 5 p.m. and 1500 Social Study, 1200 Maths, 1800 Science, 1000 Punjabi, 350 Hindi, 200 English and 10 Sanskrit posts of Master Cadre upto 12-12-2015 at 5 p.m. The registration for the candidates will close on 12-12-2015 at 5 p.m. and the candidates will have to follow procedure according to the dates mentioned in the advertisement.

That in the light of orders dated 10-12-2015 of the Punjab and Haryana High Court Civil Writ Petition No. 25249 Mandep Kaur and other Versus State of Punjab and similar Writ Petitions, those concerned candidates who have passed test on 13-12-2015, such candidates are informed that Punjab Teacher Eligibility Test I and II conducted by Punjab School Education Board, only those candidates can apply to the concerned post for the recruitment with in 2 weeks (14 days) after the declaration of result of Punjab State Teacher Eligibility Test-I and II.”

Thereafter, the result was declared on 23.12.2015 and opportunity was given to apply on-line till 09.01.2016 against the 3522 posts of ETT Teachers. Rest of the conditions were to

remain the same which had been uploaded. The public notice dated 24.12.2015 (Annexure R5) reads as under:

“Public Notice

The Punjab School Education Board has declared the result of P.S.T.E.T.-1 and P.S.T.E.T.-2 on 23-12-2015. In the light of directions of the Hon'ble Punjab and Haryana High Court in Civil Writ Petition No. 25249 of 2015 Mandeep Kaur and Others Versus State of Punjab and Others and similar writ petitions on 10-12-2015, the candidates who have passed P.S.T.E.T.-1 on 23-12-2015 are given opportunity to apply online on department website www.educationrecruitmentboard.com till 9-1-2016 for recruitment of 3522 Posts of E.T.T. Teachers. Rest of all the conditions shall remain same which were uploaded in advertisement for various subjects earlier. The terms and conditions for online applications for these posts are available on department website www.educationrecruitmentboard.com.”

Keeping in view Clause 7(ix), whereby the State had the power to increase or decrease the seats, a decision was taken that another 978 seats of ETT Teachers be filled up, vide letter dated 01.01.2016 (Annexure R2), issued to the Recruitment Board, by the office of the Director, Public Instructions (EE) and request was made that corrigendum should be issued. The same reads as under:

“Chairman, Punjab Government
Recruitment Board, Complex: G:S:S: School,
Phase 3 B 1, Mohali.
Memo No: 06/01-2015 Establishment 2(1)
Date: Mohali: 01-01-2016
Subject: Regarding filling of 3522+978 Posts of E.T.T. Teachers.

It is requested that in the meeting between Chief Minister Punjab and Punjab State Teacher Eligibility Test pass candidates on 30-12-2015, it was decided that advertisement should be issued for filling of 978 ETT Teachers. It was already written to you for recruitment of 3522 ETT teachers vide this office letter no. 03/108-2015 estt. 2(1) dated 06-11-2015. As far as recruitment of 978 ETT teachers' posts, it is requested here that corrigendum should be issued for filling of 978 posts. These posts should be filled in the light of provisions regarding recruitment in the Punjab Education Department (Primary Education) Rule 1998 and N.C.T.E, New Delhi.

Distribution of these posts is as under:-

Total no. of posts	4500
50% of the total posts for every category of Candidates on the basis of Open Merit	2250
Rest of the 50% posts i.e. 2250 posts for different categories shall be filled on the basis of points enclosed, the details of which is as under:-	

- | | |
|-------------------------------------|-----|
| 1) S.C. Category | 900 |
| 2) Ex-Service man (General Category | 315 |
| 3) B.C. Category | 450 |
| 4) Handicap Category | 135 |
| 5) S.C. (Ex-serviceman) Category | 180 |
| 6) Sport (General Category | 90 |
| 7) B.C. (Ex-serviceman) Category | 90 |
| 8) Freedom Fighter | 45 |
| 9) Sports (S.C. Category) | 45 |

Sd/-

Director Public Instruction (Ele)
Punjab."

Resultantly, on 13.01.2016 (Annexure R6), a corrigendum was issued that the posts have increased to 4500. Resultantly, candidates were afforded an opportunity to apply on-line, upto 25.01.2016. The corrigendum also gave up the break up

of the 4500 seats under various categories. Relevant part of the corrigendum reads as under:

“Corrigendum

The Education Recruitment Directorate issued advertisement on 9-11-2015 in various newspapers for recruitment of 3522 E.T.T. teachers. That 978 posts are increased from 3522 posts earlier advertised of E.T.T. Teachers. Therefore candidates are afforded an opportunity to apply online on department website www.educationrecruitmentboard.com upto 25-1-2016. The total category wise list of 4500 E.T.T. Teacher's posts and other conditions are available on department website www.educationrecruitmentboard.com.”

In between, on 08.01.2016, large number of candidates approached this Court, challenging the answer keys of the PSTET, 2015, the result of which had been declared on 23.12.2015. This Court, on 08.01.2016, in CWP-104-2016 titled *Daljit Kaur & another Vs. State of Punjab & others*, noticed that there were various ambiguities in the answer keys and a fresh exercise needed to be reconducted by the Subject Experts, so that nobody was prejudiced. Further, a direction was also issued that the cut off date for applying, which was, now, 09.01.2016, would be extended to 25.01.2016. Relevant portion of the order reads as under:

“It is, in such circumstances, once there seems to be an apparent ambiguity regarding the correct answer key, this Court is of the opinion that a fresh exercise need to be reconducted by the subject experts so that nobody is prejudiced and their rights to apply is not taken away.

Resultantly, the Board is directed to reconsider the objections which have been received by it, within a period of 10 days from today. Once the same is done, the Board shall put on the website, the revised result of the successful candidates, immediately thereafter, latest by 10 days.

Resultantly, a direction is also issued that the cut off period of 09.01.2016, as directed in CWP-25249-2015 and other connected matters, for applying, will necessarily have to be extended till the result of the PSTET is revisited by the Board. Thus, the date of applying of successful candidates of PSTET, 2015 would be extended from 09.01.2016 to 25.01.2016. The State shall publish a public notice regarding this extension of time, so that the candidates who are not petitioners herein and who might be the beneficiaries of the revised result, would be able to apply, on the basis of the benefit, if any, is granted by the Board.

However, anything said herein does not mean that the Board shall consider only these questions and it will examine all the objections, since out of the 21,400 queries against 150 questions, there is bound to be overlapping pertaining to few questions.

List on 28.01.2016, for further consideration.

Copy of this order be placed on the record of each connected case and also on the records of CWP-25249-2015 and other connected cases.

Copy of this order be supplied to Mr.J.P.S.Puri, Advocate, for the respondent-Board, under the signatures of Special Secretary of this Court.”

Resultantly, vide public notice dated 19.01.2016 (Annexure R8), the State extended the date of submission of the applications, both for the Master Cadre and the ETT posts, till 25.01.2016. The rest of the terms and conditions were to remain the same. The public notice reads as under:

“Public Notice

That the department vide advertisement dated 24-12-2015 in various newspapers The Tribune, Daily Ajit and Dainik Bhaskar had extended the date for submission of applications for Master Cadre and 3522 ETT posts candidates upto 9-1-2016 for those candidates who have passed P.S.T.E.T.-1 and P.S.T.E.T.-2 after declaration on 23-12-2015 by Punjab School Education Board. That the Punjab School Education Board in the light of the orders dated 8-January-2016 of the Hon'ble Punjab and Haryana High Court in Civil Writ Petition No. 104 of 16 Daljeet Kaur and others versus State of Punjab and similar other Writ Petitions revised the result and those candidates who have passed, are allowed to apply till 25-1-2016. The rest of terms and conditions for recruitment of these posts shall remain as advertised for various subjects on department website www.educationrecruitmentboard.com.”

In view of the revision of the PSTET (Papers I & II), in compliance of the orders of this Court, large number of candidates became eligible by extending the cut-off date in both, Papers I & II and in PSTET-I 4442 candidates had initially qualified and the Board, on its own, after receiving objections, had given benefit to 1211 candidates. Resultantly, the number of eligible candidates rose to 5653. By virtue of the further directions passed by this Court, another 409 candidates qualified, taking the total number of eligible candidates to 6062 in PSTET-I. Similarly, for PSTET-II also, it was mentioned that 4351 candidates had qualified and on the basis of the objections raised to the answer keys, benefit had been given and the successful candidates came to be 4613. In view of the directions issued by this Court on 08.01.2016, for

reconsidering the objections, the number of qualified candidates had arisen to 5222, as 609 more candidates had been granted the benefit of various answer keys.

Accordingly, the Board issued public notice dated 19.01.2016 (Annexure R9) and gave an opportunity to the candidates to edit their application forms till 25.01.2016 and no representation was to be considered, thereafter. Relevant portion of the public notice reads as under:

“Public Notice

The Punjab School Education Board has revised the result of Punjab State Teacher Eligibility Test-I and II of the year 2015 in compliance of the orders of the Hon'ble Punjab and Haryana High Court. Those candidates who have applied for 1500 Social Study, 1200 Maths, 1800 Science, 1000 Punjabi, 350 Hindi, 200 English and 10 Sanskrit posts of Master Cadre and 4500 ETT Posts and their marks have changed after the revised result of P.S.T.E.T.-I and II. Hence all those candidates are afforded opportunity to edit their application form for the above posts till 25-01-2016. No representation will be considered of the candidate after 25-01-2016.”

Due to some technical discrepancies, as the on-line website was not valid, the time was extended till 10.02.2016 and public notice dated 25.01.2016 (Annexure R10) was issued and the terms and conditions were to remain as advertised earlier. The relevant portion reads as under:

“Public Notice

That the Education Recruitment had invited to apply on line on the department website www.educationrecruitmentboard.com for recruitment of

1500 Social Study, 1200 Maths, 1800 Science, 1000 Punjabi, 350 Hindi, 200 English and 10 Sanskrit posts of Master Cadre and 4500 ETT Posts till 25-1-2016. That date for online application is extended till 10-2-2016 due to technical discrepancies in the department website **Error! Hyperlink reference not valid.** Rest of the terms and conditions shall remain as advertised earlier. The procedure to apply online for these posts and other conditions are available on department website www.educationrecruitmentboard.com.”

The State, in its additional affidavit dated 26.02.2016, have supported the case of the petitioners. It is their case that due to the promotions from ETT Teachers to the posts of Masters, 978 more posts had become vacant and therefore, decision was taken to recruit those persons, through the present advertisement. It had been also noticed that against the 3522 posts advertised, only 3432 candidates had applied and therefore, the action of the Government was also to ensure maximum participation of maximum number of candidates. The number of candidates was less than the number of sanctioned posts and there was no option but to extend the cut off date to 25.01.2016 and invite applications from all who would be eligible till 25.01.2016. No prejudice would be caused to anyone against the 4500 vacant posts and 8261 applications had been received and therefore, the best of the candidates would be recruited. In case the process was only limited to those who were eligible on 02.12.2015, the process of the advertisement would become an empty formality and merit would be a casualty and public interest would suffer. Competition

was necessary for recruitment of public posts so that best available talent could be harnessed. The details were annexed as Annexure R1.

Civil Miscellaneous applications were filed by the applicants/respondents who sought impleadment and have also sought review and recalling of the interim order. The thrust of the said applicants and now, the said respondents, is that the petitioners, who are 23 in number, had approached this Court after the cut-off date and therefore, are not entitled for the said benefit. The last date for submitting the application had expired and it was, accordingly, submitted that the petitioners being not eligible on the last date of the submission of the application forms, could not seek any relaxation on the terms of the eligibility. The test was valid for 7 years and if the petitioners clear the test in December, 2015, their certificates would be valid till 2016 to 2022 and they would be eligible to participate in all such selection. The process of selection had been stalled and therefore, the vacation of the interim order was also prayed for. It was further pleaded that the year under the General Clauses Act, 1897 and the Punjab General Clauses Act, 1898, year would be the British calendar year. The earlier test was held in July, 2014 and therefore, if the test was being held on 13.12.2015, the same would not cause any prejudice to the petitioners.

Accordingly, reliance has been placed upon the

judgments of the Apex Court in **Rekha Chaturvedi (Smt) University of Rajasthan & others 1993 Supp (3) SCC 168, Ashok Kumar Sharma Vs. Chander Shekhar 1997 (4) SCC 18, Bhupinderpal Singh & others Vs. State of Punjab 2000 (5) SCC 262** and **Rakesh Kumar Sharma Vs. State (NCT of Delhi) & others (2013) 11 SCC 58**, to contend that the last date specified in the advertisement was the relevant date for filing the applications and the basic qualifications being cleared after the said date was not justifiable. The directions issued by this Court for extending the date was also, accordingly, questioned on the ground that it was not appropriate to extend the date once the cut-off date had been fixed and that the candidate must meet the eligibility conditions on the cut-off date.

Counsel for the petitioners, on the other hand, submitted that in view of the stand taken by the State, the writ petition was liable to be allowed, especially in view of the fact that once as many as 978 seats had been added, it was open to the State to fix the cut-off date till 10.02.2016, especially keeping in view the terms and conditions of the advertisement wherein it is mentioned that the posts mentioned in the advertisement can be increased or decreased by the Government.

Keeping in view the above submissions made, this Court is of the view that there is no quarrel with the proposition which has been propounded by the applicant-respondents

regarding the acquisition of the qualifications prior to the cut-off date. However, in the present case, as noticed, the State had the power to increase the posts under Clause 7(ix). Due to the interim orders being passed by this Court and keeping in view the fact that the last test was held in July, 2014 and apart from 5850 posts which the State had chosen to advertise for the Masters/Mistresses and the 3522 posts, for ETT Teachers which was further enhanced to 4500, directions had been issued that opportunity should also be given to those persons who were to sit in the examination which was to be held a day after the cut-off date. In the case of the ETT Teachers, with which this Court is concerned, the examination was to be held a little after 10 days. The said directions were issued, keeping in view the earlier directions issued by this Court, also in similar circumstances, in CWP-21301-2011 titled *Gurjinder Singh Vs. State of Punjab & others*, decided on 13.02.2012 (Annexure P7) and CWP-19652-2012 titled *Parminder Pal & others Vs. State of Punjab*, decided on 19.07.2013. Reliance had been also placed upon the judgment of the Division Bench in CWP-346-2013 titled *Antim Kumari Vs. State of Haryana & others*, decided on 29.04.2015 (Annexure A4) in which case also, one category of candidates were such who had been protected by this Court and allowed to sit, subject to final orders. The State chose not to file any appeal against the order dated 10.12.2013 and 11.12.2015, rather, thereafter, as noticed,

978 more posts were advertised. The State, on its own, vide corrigendum dated 13.01.2016, in view of the increased number of seats, gave opportunity to the candidates to apply till 25.01.2016, which was further extended till 10.02.2016.

A perusal of the communication dated 01.01.2016 (Annexure R2) which has been reproduced above, would go on to show that the addition was made to the 3522 posts and 50% of the seats were to go to the Reserved Category seats and the balance were go to to the General Category. Resultantly, keeping in view the said exercise, fresh applications were called vide the subsequent corrigendum dated 13.01.2016, whereby candidates were afforded an opportunity to apply online upto 25.01.2016 against the categories advertised. Thus, it would be clear that the State, on its own, had extended the cut-off date upto 25.01.2016, which was subsequently, also revised to 10.02.2016, on account of the snag in the website. There is no doubt that in view of the interim orders passed by this Court also and on account of the challenge to the answer keys also, the State had to extend the date, as directed by this Court. In such circumstances, once the last date stood extended for valid reasons, the argument raised by counsels for the private-respondents that they are seriously prejudiced, is without any basis.

In similar circumstances, a Division Bench of this Court in **Navneet Kaur Vs. State of Punjab & others 2008 (4) RSJ 671**

held that once the last date for submission of applications had been extended, the eligibility date would also have to be extended as on the second cut-off date. The issue before the Division Bench was that the first cut-off date was 10.07.2006 and the corrigendum was issued on 27.10.2006 and the last date of receipt of the applications was extended till 31.08.2006. Accordingly, it was held that eligibility would be extended till the second cut-off date. Relevant portion of the judgment reads as under:

“10. After hearing learned counsel for the parties at a considerable length we find that this writ petition deserves to succeed. The undisputed facts are that after the initial advertisement issued on 11.6.2006 (Annexure P-4) an other advertisement was issued on 27.10.2006 (Annexure P-7). It would be appropriate to make reference to Clause 10 of the first advertisement, which reads thus:-

“10. The candidate should possess prescribed Educational Qualification and Professional Qualification for the post applied for on or before the last date of receipt of application.”

A perusal of the aforementioned clause would show that a candidate is required to possess professional and educational qualification for the post of Master/Mistress in the subjects of Science and Mathematics on the last date fixed for receipt of applications, which is 10.7.2006. Likewise in the advertisement dated 27.10.2006 Clause 10 is in the same terms. The dates for sending online applications are 29.10.2006 to 11.11.2006. After issuance of first advertisement a corrigendum was also issued. In Clause (ii), the educational and professional qualifications are required to be read differently than the one described in the advertisement dated 11.6.2006. Likewise in para 2, the last date for receipt of application has been extended to 31.8.2006. Both Clause (ii) and para 2 are reproduced

herein below:-

“(ii) The educational and professional qualification for the posts of Mathematics Master/Mistress may be read as “Graduate with Mathematics as one of the elective subject in Graduation with B.Ed.” instead of 'B.A./B.Sc. with Mathematics as one of elective subject with B.Ed.”

“2. In view of above para eligible candidates can send their applications for 700 posts of Master/Mistress' and 600 posts of 'Mathematics Master/Mistress' and the posts reserved for Scheduled Caste (ESM), Scheduled Caste (Sportsmen/women) and Backward Class (ESM) in all categories to The Secretary, Subordinate Services Selection Board, Punjab, SCO No.156-160, Sector 8-C, Chandigarh in accordance with the procedure laid vide advertisement No.1/2006 published in the 'Daily Ajit' dated 11.6.2006, 'The Tribune' dated 12.6.2006 and 'Punjabi Tribune' dated 13.6.2006, by Regd.Post, not later than 31.8.2006. Other conditions pertaining to age i.e. 18 to 37 years as on 1.1.2006 (except relaxation cases), possessing of required educational and professional qualification on or before 10.7.2006 and selection criteria etc. in respect of such candidates shall remain unchanged and shall be considered as per conditions of advertisement ibid i.e. 1/2006.”

It is evident that by the corrigendum the applications for 700 posts and 600 posts of Mathematics Master/Mistress were invited and the date was extended to 31.8.2006. Once the last date for submission of applications has been extended to 31.8.2006 then it follows that the eligibility as per Clause 10 would automatically be considered as on 31.8.2006. The detailed marks card of the petitioner in respect of her B.Ed. examination is dated 20.8.2006 (Annexure P-1) and accordingly she has to be considered as eligible.”

Similarly, in **Kavita Rani & others Vs. Haryana Staff**

Selection Commission 2010 (4) RSJ 621, similar view was taken

by this Court. In the said case, the first cut-off date was 21.08.2006 and the litigation ensued regarding the minimum age. The State Government, thereafter, reduced the minimum age to 17 years and vide the corrigendum dated 24.11.2008, candidates were permitted to apply again for the posts, upto 10.12.2008. However, the acquisition of the minimum qualifications remained till 21.08.2006. Resultantly, the issue was that once the cut-off date has been extended, there could not be two different yardsticks and different cut-off dates in the same advertisement, one for the educational qualifications and the other for the age. Accordingly, it was held that the last date for submission of applications had been extended to 10.12.2008, for both age and qualifications. Relevant portion of the judgment reads as under:

“10. The law propounded by the Hon'ble Supreme Court in the aforesaid case is now a well settled proposition. However, the aforesaid judgments cannot be applied to the present case, in view of the distinct facts and peculiar circumstances of this case. In the present case, the cut off date for making application has itself been extended by the selection body, in view of the wrong description of the minimum age de hors the rules. The last date for submission of the application in the original advertisement described as 21.8.2008 was extended to 10.12.2008. Under the original advertisement, the cut off date was both for the age and the qualification. The authorities, however, selectively extended the date for minimum age, but retained the same cut off date for qualification which itself is arbitrary and discriminatory in nature. No valid reasons have been indicated in the corrigendum for retaining the cut off date for qualification. If the candidates who were

eligible were deprived alongwith the stipulations of the age in the original advertisement, similarly, the candidates who acquired the qualification by the extended date of receipt of application have also been deprived of their right of consideration for selection/appointment. Once the age for making application was extended, it should have been applied uniformly both for the purpose of age as also the qualification.”

The judgments relied upon by counsel for the petitioners in Rekha Chaturvedi (supra), Ashok Kumar Sharma (supra) were also duly discussed.

Another issue which is important to note in the present case is that in the process of selection, applicants only have a right of consideration and not an absolute right of selection. The State, in its additional affidavit, has elaborated this aspect regarding that only 3432 applications had been received for 3522 posts. It has, accordingly, been rightly justified that to get the best talent, it would be necessary to scrutinize the 8261 applications now which had been received, due to the extension of time in the cut-off date, otherwise, merit would suffer. The attempt of the private respondents, thus, was ensuring selection. The decision making process of the State, thus, is valid and justified and it is always free for the private respondents to apply and compete with the persons who had qualified in the subsequent tests, on the basis of merit.

Keeping in view the above discussions, this Court is of the opinion that the above said judgments are applicable to the facts and circumstances of the present case and the judgments

cited by counsel for the private-respondents, would not be applicable. Accordingly, the CM applications filed by the private-respondents are dismissed.

Writ petition is, accordingly, allowed, keeping in view the stand taken by the State. It will be open for the applicants who had passed in PSTET-I, 2015, to apply for the posts of ETT Teachers by 10.02.2016, which is the cut-off date, now fixed, irrespective of the fact that they had not passed earlier. It is further made clear that since the judgment already stands reserved in CWP-204-2016 titled *Gurwinder Kaur Vs. State of Punjab & others*, wherein the answer key of PSTET-1, 2015 has been challenged and if any candidates are held entitled for the benefit of the answer keys and qualify, they will also be entitled for consideration, in view of the pendency of the litigation and interim orders passed and anything said herein shall not prejudice their rights. Similarly, the result in CWP-104-2016 titled *Daljit Kaur & another Vs. State of Punjab & others*, shall also govern the right of the applicants to apply for the posts of Masters, on the strength of the result of PSTET-2, 2015.

MARCH 11, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE