

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10706 of 2016

Date of Decision:-03.05.2017.

Meenu Rani

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. J.S. Chahal, Advocate for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has questioned the advertisement No.4 of 2015 (Annexure P-1) to the extent of essential qualification of B.Ed. and having qualified certificate of HTET for the post of PGT English against category No.5 with a condition to qualify the Haryana Teacher Eligibility Test (HTET) and B.Ed by 1.4.2018 as a one time measure. Further petitioner has sought for a direction to consider her candidature.

The respondents issued advertisement on 28.6.2015 for various posts of PGT. Case in hand is relating to PGT English. For the purpose of PGT Teacher basic eligibility is as follows:-

“Eligibility:-

(a) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject.

(b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET) of respective subject for the post applied, conducted by Board of School Education Haryana, Bhiwani.

Note-The candidates those who are having/passed HTET till the date of interview after advertisement will be allowed for interview on the basis of acquiring HTET (Test) till the date of interview.

(c) Consistent good academic record (See Note-2).

Note-Applications of candidates not having consistent good academic record will be accepted provisionally as per directions of Hon'ble Punjab & Haryana Court, Chandigarh passed in CWP No.19747 of 2014 titled as Rakesh Kumar & Another Vs. State of Haryana, subject to final decision of the said CWP.

(d) Essential qualification (EQ) is given with each post. Age:18-42 years, relaxation as given in special instructions.

For working teachers upper age relaxation (See Note-3)."

Specific qualification for PGT English is as follows:-

"M.A. English with at least 50% marks and B.Ed. from recognized University." Undisputedly, the petitioner do not possess the qualification of B.Ed. from the recognized University as on 21.9.2015, the last date for submission of application through online.

2.) Learned counsel for the petitioner submitted that petitioner is entitled for exemption insofar as passing of B.Ed. Examination under Rule 19-A of the Haryana State Education School Cadre (Group B) Service Rules, 2012. Relevant extract reads as under:-

"2. In the Haryana State Education School Cadre

(Group B) Service Rules, 2012 (hereinafter called the said rules), after rule 19, the following rule shall be inserted, namely:-

“19 A. Transitional provision – The person fulfilling the conditions enunciated under column 3 mentioned against the respective posts in the Haryana State Education Lecturer School Cadre (Group C) Service Rules, 1998, shall also be eligible for recruitment as a one time measure:

Provided that such person shall have to qualify the Haryana Teachers Eligibility Test (HTET) and B.Ed. by Ist April, 2015 and if he fails to do so, his appointment shall stand terminated automatically without giving any further notice.”.

3. In the said rules, in Appendix B, for note (i), the following note shall be substituted, namely, -

(i) That in case of direct recruitment, the teachers working in privately managed Government aided, recognized Government schools, are exempted from having qualifications of Haryana Teachers Eligibility Test or School Teachers Eligibility Test and B.Ed. as described in column 3, if they have worked as a teacher for a minimum period of four years on the date of enforcement of these rules.”.

*4. In the said rules, in **Appendix B, for note (ii)**, the following note shall be substituted, namely; -*

(ii) (a) A person who has passed Haryana Teachers Eligibility Test or School Teachers Eligibility Test without the qualification of B.Ed., before the notification of these rules, shall also be considered eligible for the post of PGT in the case of direct recruitment as one-time measure in the first recruitment to be held after amendment of these rules.

(b) The condition of 'Consistent Good Academic

Record' wherever appearing in Appendix B, under column 3 of these rules shall not be made applicable during the first recruitment made under these rules, in the case of candidates eligible under note (i) or (ii) (a)."

3.) Learned counsel for the petitioner submitted that petitioner is entitled for exemption in passing B.Ed. Examination so also HTET or STET in view of exemption clause stated in Rule 19-A (Note) (i). It was further submitted that Rule 19-A Transitional provision stated that eligible for recruitment as a one time measure means it is forever in respect of persons who fulfill the qualification of (Note) (i). To support his contention, he has pointed out clause (ii) (a) that speaks of one time measure in the first recruitment to be held after amendment of these Rules. Therefore, Note (i) under Rule 19-A Transitional provision is required to be interpreted that for all the future recruitment those who fulfill the clause (i) qualification they should be given exemption insofar as qualification of HTET or STET and B.Ed. In support of this contention petitioner relied on reported decision in **2015 (3) PLR 268 (Som Nath Vs. State of Haryana and another).**

4.) Per contra learned counsel for the respondents resisted the claim of the petitioner stating that the object of Rule 19-A Transitional provision is for providing only one time measure and the incorporation of Rule 19-A is on 2.7.2012. Thereafter, process of recruitment to PGT English was advertised in the year 2012 itself. Consequently, the petitioner is not entitled for any benefit under Rule 19-A Transitional provision in particularly clause (i) by which persons who are working in privately managed Government aided, recognized and Government schools are exempted from having qualification of HTET or STET and B.Ed. if they

have worked as a Teacher for a minimum period of 4 years as on the date of enforcement of these Rules. Therefore, the petitioner is not entitled for exemption in passing HTET or STET and B.Ed. merely on the ground that the petitioner had worked as a Teacher for a minimum period of 4 years as on 2.7.2012.

5.) Heard learned counsel for the parties.

6.) Method of recruitment to the post of PGT English are Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject, certificate of having qualified HTET/STET of respective State for the post applied conducted by Board of School Education, Bhiwani, Haryana read with M.A. English with at least 50% marks and B.Ed. from recognized University. The petitioner admittedly do not possess the qualification of B.Ed. Having regard to the fact that the petitioner do not possess the B.Ed. qualification is he eligible for PGT English pursuant to the Notification dated 28.6.2015 or not is the question for consideration. The petitioner's claim is under Rule 19-A of the Haryana State Education School Cadre (Group B) Services (2nd Amendment) Rules, 2012 issued on 2.7.2012. The petitioner is stated to have worked as a Teacher for a minimum period of 4 years as on 2.7.2012. Therefore, he is claiming that he is entitled for exemption insofar as possessing qualification of HTET or STET and B.Ed in view of Rule 19 of the said Rules (transitional provision). Rule 19-A provides for one time measure insofar as Note (i) and (ii) (a) are distinguishable with reference to application of one time measure or not. No doubt it is true that Rule 19-A – Transitional provision provides for one time measure and (ii) (a) provides for one time measure in the first recruitment to be held after amendment of these Rules, (2012 Rules). One

time measure of exemption is for one recruitment or for future recruitment is the question involved in the present case. Having regard to the teaching experience for a minimum period of 4 years on the date of enforcement of the said Rules, one time exemption has been granted insofar as clause (i). Insofar as clause (ii) (a) one time measure in the first recruitment to be held after amendment of these Rules. It is to be noted that what has been exempted is possessing basic qualification prescribed for the purpose of PGT English under the rules of recruitment, namely, M.A. English with at least 50 marks and B.Ed. from recognized University. Exemption cannot be held that it is forever since the word used for the rules 2012 as a one time measure. Under Rule 19-A read with (Appendix 'B') for Note (i) while exempting such of those teachers for minimum period of 4 years on the date of enforcement of Rules relating to qualification of HTET or STET and B.Ed. has not stated as a one time measure it is silent. If the Rule 19-A is taken into consideration, it speaks of one time measure. At the same time if clause (iii) (a) is taken into consideration, it speaks of one time measure in the first recruitment to be held after amendment of these Rules. Having regard to the basic qualification rules of recruitment of M.A. English with at least 50% marks and B.Ed. from recognized University cannot be waived off or exempted for certain persons those who do not possess the qualification merely on the ground that they have discharged the duties of the Teacher's post for a number of years for the reasons that to hold PGT English post one must have basic qualification. State Government as a policy matter they have given one time exemption insofar as passing of HTET or STET or B.Ed. qualification to such of those Teachers who have worked for a minimum period of 4 years, therefore, the petitioner is not

entitled for exemption for each and every recruitment after commencement of the Rules, 2012. when main Rule 19-A specified that recruitment as a one time measure petitioner's argument is not acceptable. Learned counsel for the petitioner relied on decision reported in 2015 (3) PLR 268 (Som Nath Vs. State of Haryana and another). Perusal of Rule in that matter is concerned, it is relating to age relaxation. Age relaxation is not one of the qualification prescribed for the post it is only for eligibility. Therefore, the cited decision is distinguishable having regard to the fact that it is relating to age relaxation. Age relaxation could be for such of those persons who are already working for future recruitment. Whereas there cannot be any waiver insofar as basic education qualification like B.Ed., forever as claimed in the present case. Thus, the petitioner has not made out a case so as to interfere with the condition imposed in the advertisement that one must have passed the M.A. English with at least 50% marks and B.Ed (in the present case waiver of passing of B.Ed. as well as HTET or STET).

7.) Accordingly, petition stands rejected.

(P.B. BAJANTHRI)
JUDGE

May 03, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.