

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13344-2015(O&M)
Date of Decision:18.12.2017

Anant Pal and othersPetitioners

Versus

The State of Haryana and another Respondents

2.

CWP-15744-2013(O&M)

Ram Gopal and othersPetitioners

Versus

State of Haryana and another Respondents

3.

CWP-5753-2017(O&M)

Sudhir and othersPetitioners

Versus

State of Haryana and another Respondents

4.

CWP-8053-2013(O&M)

Kanwar Singh and anotherPetitioners

Versus

State of Haryana and others Respondents

5.

CWP-12234-2017(O&M)

Balbir Singh and othersPetitioners

Versus

The State of Haryana and another Respondents

6.

CWP-21390-2015(O&M)

Dalbir Singh and others

.....Petitioners

Versus

State of Haryana and others

..... Respondents

7.

CWP-15850-2015(O&M)

Purushotam Dutt

.....Petitioner

Versus

The State of Haryana and another

..... Respondents

8.

CWP-25233-2015(O&M)

Saroj Bala

.....Petitioner

Versus

State of Haryana and another

..... Respondents

9.

CWP-25512-2015(O&M)

Subhash Chander and others

.....Petitioners

Versus

State of Haryana and another

..... Respondents

10.

CWP-22199-2015(O&M)

Anu Gupta and others

.....Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr.Vijay Pal, Advocate,
for the petitioner (s)
(in CWP-13344-2015, 22199-2015, 25233-2015, 5753-2017)

Mr. Jawahar Lal Goyal, Advocate
for the petitioner(s) (in CWP-25512-2015)

Mr. R.N.Lohan, Advocate
for the petitioner(s) (in CWP-15850-2015)

Mr.Vinod S.Bhardwaj, Advocate
for the petitioner(s) (in CWP-21390-2015)

Mr.Shish Pal Laler Advocate
for the petitioner(s) (in CWP-12234-2017)

Mr.R.S.Dhull, Advocate
for the petitioner(s) (in CWP-8053-2013)

Mr.Sanjiv Gupta, Advocate
for the petitioner(s) (in CWP-15744-2015)

Mr. R.K.Doan, A.G.,Haryana.

Mr. Sanjay Kaushal, Senior Advocate with
Mr. Arjun Shukla, Advocate for respondents no.3 to 197.

AMOL RATTAN SINGH, J.

In these 10 petitions the essential issue is as to whether the petitioners can be promoted from the posts of Trained Graduated Teachers (formerly known as SS Masters/Mistresses, Maths Masters/Mistresses, etc.) to posts of Post Graduate Teachers (formerly known as Lecturers, School Cadre), in terms of the Rules prevalent at the time when the vacancies are stated to have arisen in the posts of PGTs, or promotions would have to take place only according to the Rules subsequently promulgated in the year 2012, with the respondent State having taken a stand that posts of PGTs must be filled in only as per the qualifications stipulated in the new Rules.

The petitioners have also impugned the communications issued by
the Director, Secondary Education (respondent no.2 in most of these petitions),

addressed to the Director, SCERT, Gurgaon, all District Education Officers/Primary Education Officers and Principals of the Schools in the State.

Copies of these communications, dated 28.05.2015 and 19.06.2015, have been annexed as Annexure P-7 and P-8 respectively with CWP-13344-2015. Vide the said communications, cases for promotion to posts of PGTs in different subjects were directed to be sent to the second respondent herein, laying down the eligibility conditions on the touchstone of which the names of employees in the TGT cadre were to be sent by the subordinate officers (to the Director). The eligibility conditions, other than the usual ones of no complaints on honesty etc., were that the employees must have passed the examinations stipulated in the rules promulgated in the year 2012.

2. The facts are being taken, for the sake of convenience, from the aforesaid CWP No.13344 of 2015.

As per the 52 petitioners in the petition, they were appointed as Masters/Mistresses in different subjects at different points of time, starting from the year 1991 in the case of some petitioners, right upto the year 2010.

The years in which they have passed the essential qualification of post graduation, for promotion as Lecturers earlier and now as PGTs, have also been given by the petitioners in the chart giving their details, a copy of which is annexed as Annexure P-1 with the petition.

3. It is contended that as per the Haryana State School Education (Lecturers School Cadre) (Group `C`) Services Rules, 1998, the following eligibility conditions were essential for promotion from the posts of

Masters/Mistresses/Classical and Vernacular (C & V) Teachers, to the posts of Lecturers/PGTs:-

“Lecturer

By Promotion:-

History

- (i) M.A.History or Ancient Indian History and Culture or Culture and Archaeology with atleast 50% marks from recognized university
- (ii) 2 years teaching experience as Master /Classical and Vernacular teacher.”

4. It is further stated, by way of example, that petitioner no.1 had completed his Masters degree in History in the year 2010, having obtained more than 50 percent marks, and also had two years teaching experience as a Mathematics Master, and consequently, he was fully eligible for promotion to the post of a Lecturer/PGT in terms of the aforesaid Rules of 1998, the criteria for promotion (as per Rule 3(2) of the said Rules), being seniority-cum-merit.

5. It is next stated that in the years 2007, 2009 and 2010, the cases of eligible employees had been called for by the Directorate, for consideration for promotion to posts of Lecturers, but promotions were not made at that point of time. Copies of the letters issued by various authorities calling for the details of employees who fulfilled the eligibility conditions for promotion as Lecturers, have been annexed as Annexures P-3 to P-5 with the petition.

It is also stated that even in the year 2012, i.e. the year when the new Rules were promulgated, cases for promotion were called for by the

Director, Secondary Education, which, according to the petitioners, was in terms of the old Rules.

However, it may be stated at this stage itself, that the letter annexed with the petition to support this contention, is actually dated 22.02.2013 (Annexure P-6), the note at the end of which specifically stipulates that it should be ensured that “the cases of promotion are covered under new Rules dated 12.04.2012.”

6. Be that as it may be, no promotions having been made even pursuant to that letter, again in May/June, 2015, cases for promotion to posts of PGTs were called for in terms of the Rules of 2012, vide the impugned communications (Annexures P-7 and P-8), with a condition stipulated that those who had been appointed as Masters/Mistresses/C&V Teachers and had completed their degrees upto 01.01.2014, would also be eligible for promotion.

7. The grievance of the petitioners is that under the new Rules, the eligibility conditions for promotion have been changed, with the new Rules stipulating that necessary experience on the post of a TGT (formerly Master/Mistress as already noticed), being essential in the same subject as the one in which the teacher had obtained a Masters degree, with her/him being restricted to consideration for promotion to the post of a PGT only in the subject in which she/he had completed such Masters degree and had two years' experience of teaching in that subject itself, on the lower post (TGTs etc.).

Thus, if a person had completed her/his Masters degree in History but had taught Mathematics as a TGT, she/he would not be eligible for promotion to the post of a PGT (History or Mathematics).

The example given in the writ petition is that of petitioner no.1, who is stated to be a Mathematics Master but has obtained a post graduate degree in History (MA History). Hence, being a Mathematics Master, since he had not gained experience of teaching Social Studies or History for two years, he is ineligible to be promoted to the post of a PGT, either in History, or even in Mathematics, (as he had not obtained a post graduate degree in Mathematics, that being essential for promotion as a PGT in Mathematics).

This is because in the Haryana State Education School Cadre (Group `B`) Service Rules, 2012, the aforesaid conditions have been incorporated. The relevant provision in the aforesaid Rules, for promotion to the post of a PGT (History), is contained in Appendix B thereof, reproduced herein below (by way of example only in the subject of History):-

“By Promotion:-

- (i) M.A. History with at least 50% marks and B.Ed. from recognized university, AND
- (ii) 2 years teaching experience as TGT Social Study, AND
- (iii) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET).”

Thus, though the petitioners were eligible for promotion to posts of PGTs in the subjects they have obtained post graduate degrees in, even if they had not taught those subjects as TGTs/Masters/C & V Teachers, as per the old Rules of 1998, they are now not eligible as per the Rules of 2012.

In addition, as per Appendix-B of the Rules of 2012, Trained Graduate Teachers (TGTs) are also required to have passed the Haryana Teachers Eligibility Test (HTET) or the School Teachers Eligibility Test (STET).

8. It is further stated in the petition that promotions last made to posts of Lecturers (now re-designated as PGTs), took place before the year 2007 and therefore the vacancies (on account of retirements etc.), which are now sought to be filled up as per the new Rules, actually arose at a time when the Rules of 1998 were governing the field.

Consequently, they rely upon the judgment of the Supreme Court in **Y.V.Rangaiah & others versus J.Sreenivasa Rao and others** (AIR 1983 SC 852), to contend that vacancies arising at a time when the old Rules were in force, must be filled in as per the eligibility conditions stipulated in those rules.

To the same effect they also reply upon a judgment of this Court in **HC Kulwant Singh and others versus HC Daya Ram and others** (2015 (1) RSJ 49).

Hence, quashing of the letters annexed as Annexures P-7 and P-8 is sought, with a further writ of mandamus sought, directing the official respondents to consider the petitioners as eligible for promotion to posts of PGTs, in terms of the old Rules, on the ground that the vacancies to the promotional posts occurred prior to the promulgation of the new Rules.

10. In the written statement filed on behalf of the official respondents, it has essentially been stated that the Rules of 2012 having come into force prior to filling up of the posts of PGTs, it would be the new rules and not the old rules that would prevail.

In respect of the ratio of the judgment in *Rangaiah's* case (supra), it has been stated that in the subsequent judgment of the Supreme Court in **Deepak Aggarwal v. State of U.P. (2011) 6 SCC 725**, it has been held that it is the rules existing at the time when the posts are to be filled in that would prevail, and not the earlier rules, even in respect of vacancies that had occurred earlier.

The written statement also refers to an old judgment of the Supreme Court in **C. Sankara Narayan v. State of Kerala, AIR 1971 SC 1997**, quoting from that judgment to the effect that “under the provision of Article 309 and in exercise of power conferred therein, the conditions of service may be changed.”

Other judgments of the Delhi High Court, essentially to the same effect, are also relied upon in the written statement.

Other than the above, in the reply on merits, it has been stated that it is more rational that a person to be promoted as PGTs should have obtained a post graduate degree in the same subject in which he/she is to teach, rather than having obtained it in a different subject, and therefore, to promote a Mathematics Master as a PGT in History, would be quite irrational.

11. Though in the writ petition from where the facts have been taken, i.e. CWP no.13344 of 2015, and in all other writ petitions, no persons other than Government and its Department of Secondary Education have been impleaded as yet as parties, however, Civil Misc. no.15701 of 2015, filed by 195 persons, is on record, seeking to be impleaded as respondents in the petition, on the ground that they are the persons who would be affected by the outcome of the judgment in these petitions, as they are eligible to be promoted to posts of PGTs as per the rules of 2012, and therefore, they have a right to be heard.

Though it is seen that somehow no notice was formally issued in this application to the counsel opposite, however, Mr. Sanjay Kaushal, learned Senior Counsel appearing for the said 195 persons-applicants, is shown to have appeared whenever this petition came up for hearing right since December 3, 2015, with more than 4 dates having gone by thereafter, and eventually in fact learned Senior Counsel had addressed arguments in detail in the presence of the counsel for the petitioners in all these petitions, as also in the presence of learned State counsel, and it is consequently due to obvious inadvertence that the application was not allowed, to which no petitioner has raised an objection, even after seeing Mr. Kaushal having argued the matter on various dates.

In any case, even if any objection had been raised by the petitioners, to the impleadment of the 195 teachers who seek to be impleaded as respondents by the said application, the opposition to such impleadment would have to be rejected by this Court, on the ground that indeed the said persons are directly affected parties.

Hence, with the said persons actually having been heard as respondents through their counsel, without this Court realizing that no formal order had been passed impleading them as such, it is considered appropriate to even at this stage allow the application and order formal impleadment of the persons named in paragraph 4 of the application, as respondents no.3 to 197 in CWP no.13344 of 2015.

For the record, it needs to be also stated in this context that even a rebuttal to the arguments raised by Mr. Kaushal, learned Senior Counsel appearing for the said respondents, was made by the learned counsel for the petitioners in Court, and therefore the petitioners would not be prejudiced in any manner by their

‘formal impleadment’ even at this stage, they actually having been taken to be respondents at the time when final arguments were heard in these petitions.

12. Coming to the arguments themselves, learned counsel for the petitioners submitted that the posts of Lecturers having remained vacant for a long period of time, and because they were first proposed to be filled in the year 2007 as can be seen from Annexure P-3, then in the year 2009 as per Annexure P-4 and then in the year 2010-11 as per Annexure P-5, but were not filled up for any valid reasons, the petitioners would have a right to promotion in terms of the old rules. It is further contended that this would be especially so, as eventually, when the matter was put up to the Government in the year 2011, as per the noting sheet Annexure P-15, the reasoning given for not filling up the posts was that the Guest Lecturers already working against the posts to which the petitioners were eligible to be promoted under the 1998 Rules, would be displaced, as most of the Guest Lecturers could not be adjusted against the said posts.

Learned counsel also referred to Annexure P-14, which are instructions of the Government dated 06.02.2002, which state to the effect that vacancies which are to arise in any particular cadre must be determined at the earliest and a panel prepared to fill up the said posts. They consequently submitted that it would be the judgment in **Rangaiah** (*supra*) that would apply on all fours to the case of the petitioners also, they not being at fault that for 5 years prior to the amendment of the rules in 2012, the vacancies were not filled up by government, only because Guests Lecturers were working against the posts which were to be filled.

13. Mr. Gupta, learned counsel for the petitioners in CWP no.15744 of 2015, also submitted that in Deepak Aggarwals’ case the consideration for promotion took place after the amendment had come into effect, whereas in the

present case, as per Annexure P-3, 4 & 5, the case for consideration was initiated at least 5 years prior to the amendment coming into effect and hence that judgment would be inapplicable.

14. Learned counsel for the petitioners in CWP no.25512 of 2015 further submitted that as a matter of fact the respondent-State is adopting a pick and choose policy as regards following previous rules and new rules, because in the case of direct recruitment of Post Graduate Teachers, a corrigendum was issued on 03.07.2012, referring to the new rules of 2012, but in clause 4 of the said corrigendum, there is a transitional provision to the effect that persons fulfilling the conditions of qualifications as per the old Rules of 1998, shall also be eligible for recruitment as a one time measure, provided that such persons shall have to qualify the Haryana Teachers Eligibility Test (HTET) and the B.Ed. examination by the 1st April, 2015, and if such a person fails to do so, her/his appointment shall stand terminated “automatically”, without giving any further notice.

He therefore submitted that the arguments of learned counsel for the respondents are obviously not in consonance with the actual policy of the government.

15. In response thereto, Mr. Doon, learned State counsel, interpreted the above to submit that even the said transitional provision laid down a condition that those recruited (by direct recruitment) with qualifications under the old rules were required to fulfill the eligibility criteria stipulated in the new rules, to the effect that within a specific period they have to obtain a degree of Bachelor of Education, as also to the pass the Haryana Teacher Eligibility Test/State Teacher Eligibility Test, failing which their appointments would be cancelled.

16. Mr. Kaushal, learned Senior Advocate appearing for the ‘private respondents’, argued that, firstly, in the case of Rangaiah, it was statutory rules which required that a panel shall be prepared every year and the posts shall be so filled, whereas in the present case it is only executive instructions (Annexure P-14) that are being relied upon by the petitioners and therefore, it would not be Rangaiahs’ case which would govern the field but *Deepak Aggarwals’* case (supra), wherein it has been very clearly held, distinguishing *Rangaiahs’* case, that it was a judgment rendered in view of the statutory rules prevalent specific to that case, and that it is the prerogative of the government to fill up or not fill up any particular posts, and if for any reason the posts remain unfilled, and during that period new rules come into existence, replacing the earlier rules, thereby making any person eligible under the old rules ineligible in terms of new rules, it would still be the new rules which would have to be adhered to, even if the vacancies were existent prior to coming into the existence of the new rules.

He further submitted that therefore, whether or not the vacancies remained unfilled because of Guest Lecturers working against them, or for any other reason whatsoever, that would be wholly immaterial as regards the applicability of the ratio of the judgment in *Deepak Aggarwals’* case.

He also relied upon a judgment of a coordinate Bench, in **Punjab National Bank v. Union of India, 2012 (4) SCT 91** (specifically referring to para 8 of the said judgment).

17. Learned State counsel further reiterated the aforesaid contentions in toto, to support the decision of the Government in filling up the posts in terms of the new rules, with it being the prerogative of the State when to fill up vacancies.

Mr. Doon also referred to paragraph 9 of the preliminary submissions, to submit that promotion is not an indefeasible right and chances of promotion are

also not a vested right in any employee, and would be governed by circumstances which prevail at a given point of time.

18. Learned counsel for the petitioners, in rebuttal, firstly submitted that there was not even a set of executive instructions under consideration of the Supreme Court in Deepak Aggarwals' case, and further, in the written statement filed by the respondent-State in the present case, it has not been specifically stated that a conscious decision was taken not to fill up the posts in question due to an amendment in the rules being under consideration of the Government. Therefore, the contention of learned State counsel to the effect that filling up /not filling up posts is the prerogative of the State Government, as also to amend the statutory rules, incorporating therein better qualifications for higher posts, would be a contention not applicable to the facts of the present case.

19. Having considered the arguments of learned counsel on all sides, as also the pleadings, in the opinion of this Court, though it would actually seem unfair to the petitioners, who were not promoted despite promotions having been proposed in the years 2006, 2007, 2009 and 2010, after which the new rules came to be promulgated in the year 2012, making them ineligible for promotion, yet, it needs to be seen by this Court that the condition stipulated in Appendix-B of the new rules, that a Trained Graduate Teacher necessarily must have 2 years teaching experience in the subject that she/he has obtained a post graduate degree, for her/him to be eligible for promotion to the post of a Post Graduate Teacher in that particular subject, is a wholly rational condition and therefore, to hold that the petitioners must be promoted in terms of the old rules even in the case of vacancies which arose at the time those rules were in force (1998 Rules), would actually mean directing the respondents to do something not wholly rational, even though it

was being done earlier, since the Rules of 1998 came into force till they were repealed in 2012.

20. In such a circumstance, what has been held in *Deepak Aggarwals'* case (supra), to the effect that no vested right accrues to an employee for promotion, unless the rules specifically stipulate that such consideration must be done within a particular time frame, would be a dictum that would apply to the present case also.

In the opinion of this Court, though otherwise there would be merit in the petitioners' contention that they were not promoted under the old rules at the proper time only to ensure that Guest Teachers did not lose their jobs, yet, in view of the rationality of the new rules, the petitioners cannot be promoted as per the old rules.

21. The judgment in **Roshan Lal Tandan v. Union of India** AIR 1967 SC 1889 can also be referred to, wherein it was held that there is no vested contractual right as regards the conditions of service between an employer and an employee and therefore conditions of service can change during the course of such service.

Undoubtedly, in **Dr. Ms. O.Z. Hussain v. Union of India & others** AIR 1990 SC 311, their Lordships also held that an employee in Government service should have at least two chances of promotion in his career; however, obviously that can only be in terms of specific qualifications prescribed as are considered necessary for the post in question. Of course, if qualifications prescribed are wholly arbitrary, or to oust any class of person (s) from being promoted, in order to save some other category or cadre of employees, it would be a different matter; but in the present case, as already noticed, the new rules providing a more rational qualification, commensurate with the nature of duties attached to the post of a Post Graduate

Teacher of a particular subject, it cannot be said that there is anything arbitrary or discriminatory in that action.

Hence, as regards the contention of learned counsel for the petitioners that the vacancies occurring must be filled in as per the rules then existent, on the principle of rationality alone, that has to be rejected.

22. As seen, their Lordships held in *Deepak Aggarwals'* case that the ratio of *Rangaiahs'* case (supra), was in the circumstance of the rules governing the service of the parties in that case, where consideration for promotion had to be 'statutorily' made every year in the month of September, and therefore in view of that provision, a right actually accrued to the employees governed by the said rules, to have been considered for promotion within a particular time frame every year.

Nothing has been shown to this Court from the rules of 1998, in the present case, wherein any such equivalent provision has been made, that the posts of Lecturers (now PGTs) must be necessarily filled in within a specific period.

The contention with regard to the instructions of the Government dated 06.02.2002 (Annexure P-14), in the opinion of this Court though again is an argument which is worthy of consideration, to the effect that in the face of the said instructions the petitioners also had a right to be promoted within a specific time frame, with the first quarter of each calendar year fixed as the time when departmental promotion committees are required to need to decide eligibility of employees for promotions, but those being executive instructions and not statutory rules, they cannot be put on the same pedestal to apply the ratio of *Rangaiahs'* case to the petitioners, especially as the qualifications prescribed by the new rules are wholly in consonance with more effective teaching of students, in specific subjects.

23. Naturally, this Court is aware that it has been unfair on the petitioners that upgradation in qualifications has been stipulated in the new rules, thereby making

them suddenly ineligible for promotion; but that is an issue which will be taken into account presently, as will be seen further ahead. Suffice to say on merits, that statutory rules stipulating better and more rational qualifications would override any executive instructions which may otherwise be in favour of the petitioners, even being perfectly good and rational instructions.

24. Undoubtedly, in *Deepak Aggarwals'* case itself, their Lordships also referred to the judgment in **Dr. K. Ramulu & Anr. V. Dr. S. Suryaprakash Rao & Ors. AIR 1997 SC 1803**, wherein it was held that, if the Government had taken a conscious decision not to fill up the posts pending promulgation of new rules, the incumbent on a particular post would have no right to be considered for promotion even in respect of vacancies which accrued prior to the issuance of the new rules; whereas in the present case, of course, it has not been shown to this Court by the respondents specifically, that a decision was taken not to fill up the posts pending promulgation of new rules.

Yet, the fact being that the new rules stipulate that a person seeking promotion as a PGT in a particular subject must have two years teaching experience in that very subject on the lower posts, other than having a post graduate degree with 50% marks in that very subject, and must have also passed the Haryana Teachers Eligibility Test, to repeat yet again, it would be irrational in my opinion, for this Court to direct that the higher posts be filled in even by those who have no teaching experience in that particular subject on the lower post, or have no post graduate degree in that specific subject. Obviously, the improvement stipulated in the new rules is for the benefit of students, and this Court would therefore be loathe to interfere with better standards of education for students.

25. Having said that, it cannot be lost sight of that no warning is shown to have been given to the petitioners and others like them, that the rules

would be amended to the aforesaid effect, thereby giving them sufficient time to obtain the necessary post graduate qualification and to clear the Haryana Teachers Eligibility Test (HTET) within a specific period.

As correctly pointed out by learned counsel for the petitioners, Note (i) below Appendix-B in fact provides an opportunity to those seeking direct recruitment to posts of PGTs, to clear the HTET even after their appointment, upto 01.04.2015 (later extended to 01.04.2018), and consequently, there would be no reason to deny the petitioners and others like them, the same benefit.

26. Hence, considering the entire circumstances, these petitions are disposed of with a direction that it would be actually the new rules of 2012 that would apply for filling up vacancies on the posts of Post Graduate Teachers, even as had occurred prior to the promulgation of the 2012 rules; however the petitioners and others like them shall be given a 4 year period to obtain post graduate qualifications in the subjects that they are teaching on the lower posts (TGTs/Masters/Mistresses), as also to qualify the HTET within the said period.

If they do so, they would be then promoted to the then available posts of PGTs in their respective subjects, with their seniorities in the lower cadre restored upon such promotion, even above those juniors who had been promoted earlier as PGTs, i.e. respondents no.3 to 197 and others like them, provided those who are junior to the petitioners and others like them, in the TGT cadre, have not been further promoted to a post higher than PGT by that time.

It also, of course, is only too obvious that a post graduate degree is obtainable in 2 years, but at the stage that the petitioners and others like them are, being in regular jobs, it is considered appropriate to grant them an extra 2 years to clear the necessary examinations.

27. Alternatively, subject to posts being available, TGTs who have obtained post graduate degrees in subjects other than those in which they are teaching, may opt to be transferred to the cadre/sub-cadre of TGTs in the subject that they have obtained such post graduate degree in, and upon completing two years of teaching experience, they would then be eligible for promotion as PGTs in that very subject, they by then having gained necessary experience as also having possessed the post graduate degree required for such promotion.

Thus, if a TGT (Mathematics) has acquired a post graduate degree in English, he/she may opt for being posted as a TGT (English), if posts are available in that subject, and upon gaining two years' experience, can be considered for promotion in the same manner, to the post of a PGT (English).

28. A direction for promotion of the petitioners first, with a condition of obtaining the relevant post graduate degrees subsequently, within a specified period, is not being given because that would mean that till the time such persons acquire higher qualifications, they would actually be working contrary to the essential conditions of the Rules, thereby defying the rationale behind it, which would not be in the interest of students.

It needs to be stated here that, undoubtedly, restoring seniorities on higher posts at a subsequent stage (2 to 4 years later), would mean obviously shuffling the seniority list in a very large cadre at that stage (of promotions after obtaining the degree), but in view of the fact that the new rules have been promulgated adding improved eligibility conditions, without sufficient notice to those who did not have those qualifications, it is considered appropriate by this Court to give such persons an opportunity to acquire such higher qualifications (post graduate degrees), as also to clear the HTET. In the case of HTET, as already noticed, if for direct recruits such a provision has been made, then there is no

reason not to give that benefit to the employees already in service of the State, with the additional benefit of being able to obtain the post graduate degree in the subject concerned, within a period of 4 years, though prior to promotion.

If however, a TGT possesses a post graduate degree in the subject that she/he is already teaching, then for promotion as a PGT in the same subject, the clearing of the HTET/SLET/SET shall not be a pre-condition but a condition subsequent, just as in the case of direct recruits.

Thus, if a TGT (History) seeks promotion as a PGT (History) and has two years teaching experience in the said subject, as also a post graduate degree in History, she/he would be eligible to be promoted as such PGT immediately, provided thereafter she/he clears the HTET/SLET/SET within 4 years of promotion, failing which she/he shall be reverted to the post of a TGT.

29. With the aforesaid directions, these petitions are disposed of.

No order as to costs.

December 18, 2017

Dharamvir/vcgarg/dinesh

(AMOL RATTAN SINGH)

JUDGE