

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

(1) CWP No.2138 of 2013
Date of Decision: 17.012017

Kuldeep Singh . . . Petitioner

Versus

State of Haryana and another . . . Respondents

(2) CWP No.20875 of 2013
Date of Decision: 17.012017

Smt. Shashi Bharti . . . Petitioner

Versus

The State of Haryana and another . . . Respondents

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

Present: Mr. Surender Pal, Advocate
for the petitioner (in CWP No.2138 of 2013).

Mr. Ravi Verma, Advocate
for the petitioner (in CWP No.20875 of 2013).

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. Bajanthri, J. (Oral)

1) By this order, CWP Nos.2138 and 20875 of 2013 shall be disposed of as the point in issue is similar. For brevity, facts are being extracted from CWP No.2138 of 2013.

2) In the instant writ petition, the petitioner has sought for a direction to respondent Nos.1 and 2 to consider his name for promotion to

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the post of Elementary Middle Head (Headmaster of Middle School).

Mode of recruitment to the post of Elementary Head School Master reads as under:-

1	2	3	4
1	Elementary Head School Master		By promotion:- (i) B.A./B.Sc. and 2-year Diploma in Elementary Education; OR B.A./B.Sc. with at least 50% marks and 1-year Bachelor in Education (B.Ed.); OR B.A./B.Sc. with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard; OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor in Elementary Education (B.El. Ed.); OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year B.A. Ed.; or B.A./B.Sc. with at least 50% marks and 1-year B.Ed. (Special Education); (ii) 5 year experience in regular capacity as Hindi/Sanskrit/Punjabi Teacher/TGT, (iii) Atleast 3 weeks in-service training in administrative and accounts module. By transfer or deputation:- (i) B.A./B.Sc. and 2-year Diploma in Elementary Education; OR B.A./B.Sc. with at least 50% marks and 1-year Bachelor in Education (B.Ed.); OR B.A./B.Sc. with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard; OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor in Elementary Education (B.

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			El. Ed.); OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year B.A. Ed.; OR B.A./B.Sc. with at least 50% marks and 1-year B.Ed. (Special Education); AND (ii) 10 years experience as Elementary Head Master; (iii) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET); (iv) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject.
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3. Admittedly, one of the qualification prescribed for the post is one must have passed B.Ed. examination. The petitioner is stated to have qualification of language teacher and not B.Ed qualification. The petitioner's education qualification is required to be equivalent to the B.Ed qualification. He relies on the decision passed in CWP No.16674 of 2006, to contend that the language teacher qualification is equivalent to B.Ed. Therefore, he is entitled to be promoted to the post of Elementary School Master. He also relies on Annexure P-5, wherein this Court has held that BT/B.Ed/LTC (Language Teacher Course) qualification etc. is equivalent to B.Ed. From the provisions of Rules of recruitment governing the post of Elementary School Master, it is evident that BA qualification is not necessary qualification for the purpose of promotion. In the rules of recruitment nowhere it is stated that equivalent qualification of B.Ed. As long as the rules of recruitment are silent in respect of equivalent qualification of the BA with LTC (Language Teacher Course), the petitioner cannot claim for promotion to the post of

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Elementary School Master. Having regard to the earlier decisions vide Annexures P-3 and P-5. It is distinguishable for the reasons that selecting and appointing authorities have to adopt Rules of Recruitment for the purpose of promotion, which are not amended by incorporating equivalent qualification of B.Ed., to that of LTC. The Rules cannot be ignored by the competent authority. On this issue, the Hon'ble Supreme Court in case of **Nair Service Society vs T. Beermasthan 2009 (5) SCC 545** in para 48, has held that before deciding the issue with reference to any decisions, relevant rules are required to be examined. Extract of para 48 of the judgment reads as under:-

“48. Several decisions have been cited before us by the respondents, but it is well established that judgments in service jurisprudence should be understood with reference to the particular service rules in the State governing that field. Reservation provisions are enabling provisions, and different State Governments can have different methods of reservation. There is no challenge to the Rules, and what is challenged is in the matter of application alone. In our opinion the communal rotation has to be applied taking 20 vacancies as a block.”

4. Having regarding to these facts and circumstances, the decisions vide Annexures P-3 and P-5 are distinguishable.

5. Petition stands dismissed.

[P.B. BAJANTHRI]
JUDGE

17.01.2017
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Whether Speaking/reasoned	:	Yes
Whether Reportable	:	No