

C.W.P. No. 18635 of 2016

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 18635 of 2016

DATE OF DECISION:30.08.2017

Jagtar Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Deepak Gupta, Advocate
for the petitioners.

Mr. Navdeep Chhabra, DAG, Punjab.

DAYA CHAUDHARY, J.

The petitioners have approached this Court by way of filing the present petition under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to consider their cases for the post of JBT/ETT teachers under the Ex-servicemen category after considering their qualifications, which are equivalent to JBT as per judgment of Division Bench of this Court in LPA No. 1111 of 2010 titled as **State of Haryana and another Vs. Hawa Singh and others** decided on 5.12.2012.

Briefly the facts of the case as made out in the present petition are that the petitioners are Ex-servicemen, who have retired from the Indian Army after completing the tenure of their service. The petitioners after passing matriculation examination/10+2 examination were enrolled in

Indian Army and while serving in the Army they were selected by the Army for doing Instructor Training Course conducted by the Army Education Corps Training Course. The petitioners successfully completed their course and were issued necessary certificates by AEC Training College and Centre Pachmarhi. They have also qualified the Punjab State Teachers Eligibility Test.

On 9.11.2015, 4500 posts of JBT/ETT teachers were advertised and the petitioners applied for the said posts under Ex-servicemen category. However, the result of the petitioners was withheld on 22.8.2016 on the ground that the JBT course done by the petitioners was not recognized or equivalent to the JBT Course as per advertisement. The claim of the petitioners was not considered inspite of the fact that their qualification was equivalent as mentioned in the advertisement.

Learned counsel for the petitioners contends that the petitioners have done Unit Education Instructor Course from the Army Education Corps, which is equivalent to the qualification of two years JBT/ETT Course and they are entitled to be considered for appointment on the basis of their respective merits. Learned counsel further contends that the controversy in the present case is squarely covered by the decision of this Court in C.W.P. No. 9424 of 2010 decided on 20.9.2013 titled as **Vijender Singh and others Vs. State of Haryana and others**, wherein, judgment of LPA Bench rendered in LPA No. 1641 of 2010 has been relied upon.

Learned counsel for the respondent-State has not disputed the decision of Single Bench as well as of LPA Bench.

Heard the arguments advanced by learned counsel for the parties and have also perused the documents available on the file.

Admittedly, the petitioners are Ex-servicemen and in pursuance of advertisement dated 9.11.2015, they applied for the post of JBT/ETT teachers by finding themselves to be eligible. Their result was withheld only on the ground that they were not possessing equivalent qualification. Same issue was there before this Court in C.W.P. No. 9925 of 2005 titled as **Hawa Singh and others Vs. State of Haryana and others** decided on 9.3.2010. In that petition also, the result of the petitioners therein was not declared only on the ground that their qualification was not considered as equivalent. Said writ petition and other connected cases were allowed by this Court with a direction to the respondents to issue appointment letters to the petitioners in pursuance of their selection as JBT teacher. A further directions was also issued to the respondents to treat the petitioners being qualified for the post by considering their equivalent qualification. Against the aforesaid decision of Single Bench, State of Haryana had filed LPA, which was dismissed.

Similar issue was there before this Court in C.W.P. No. 9424 of 2010 titled as **Vijender Singh and another Vs. State of Haryana and others** decided on 20.9.2013, which was also allowed by relying upon the decision of LPA Bench rendered in LPA No. 1641 of 2010 titled as **State of Haryana and others Vs. Joginder Singh and others** decided on 5.12.2012. The relevant portion of aforesaid LPA is reproduced as under:-

“10. We would like to point out here that the appellants herein had relied upon the judgment of a Division Bench in the case of **Azad Singh and others Vs. State of Haryana**, Civil Writ Petition No.8882 of 1997, decided on 08.07.1997, as per which the course in question was not treated as equivalent by the State

of Haryana. The learned Single Judge has remarked that in the said judgment the attention of the Division Bench was not drawn to the aforesaid material and particularly the recognition granted by the State of Madhya Pradesh. It is the submission of learned counsel for the appellants that the recognition granted by the State of Madhya Pradesh would be of no avail inasmuch as there has to be a specific orders either of the Director General, Ministry of Defence, Government of India or State of Haryana in this behalf. It is not necessary to go into this aspect any longer. As pointed out above, the Director General has now circulated the Directory of Equation of Service Trades and guide to registration of Defence Service applicants for employment on 05.10.2012. In this Directory, the Unit Education Instructor Course is specifically treated as equivalent to 'Primary School Teachers'. According to us, this is the clincher and no further enquiry in this behalf is even required. Once the Director General has done the necessary exercise and has declared the aforesaid 'Unit Education Instructor Course' as equivalent to 'Primary School Teacher', it stands established therefrom that all these respondents who are holder of 'Unit Education Instructor Course', the said qualification is to be treated as equivalent to J.B.T. course.”

In view of the facts and law position as discussed above, the writ petition is allowed in terms of decision in **Joginder Singh's case (supra)**. The respondents are directed to consider the claim of the petitioners in view of said judgment for appointment in case they are found

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eligible otherwise as per merit list. The necessary exercise be done within a period of two months from the date of receipt of certified copy of the order.

August 30, 2017
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No