

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2097-2017

Date of Decision: February 03, 2017

Inderjeet Kaur and others

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Mohit Garg, Advocate
for the petitioners.

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SURYA KANT, J.

The petitioners have laid challenge to Note-III of Appendix-B of the Haryana State Education School Cadre (Group-B) Service Rules 2012 (for brevity, 'the Rules 2012') and consequential advertisement issued for recruitment to the post of PGT (Punjabi). Vide the impugned provisions of the Rules of 2012, the Rule Making Authority has mandated that the candidates to be recruited for the posts of PGT in different subjects must possess 'Consisting good academic record'. The expression 'Consistent

good academic record' has also been defined in the Rules and as per Note-III

of Appendix-B it means *'in case of direct recruitment consistent good academic record means that out of the lower qualification, i.e. Matric/10+2/Graduation than the requisite minimum qualification, one must secure at least 50% in two lower exams and 45% in third lower exam. If there is only two lower exams, then one must secure at least 50% in one exam and 45% in another.'*

Since the petitioners do not fulfil the criteria of 'Consistent good academic record' for want of requisite percentage of marks in one or the other examination, referred to in the above reproduced Note, they have laid challenge to the *vires* of the Rules.

The foremost plea taken by the petitioners is that the National Council for Teachers Education (for brevity, 'the NCTE') is the 'Principal Statutory Body' to recommend the qualification for various teaching posts and it has already notified the 'National Council for Teacher Education (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001' (Annexure P-1), wherein no such condition of 'Consistent good academic record' is prescribed. It is contended on this premise that since the State Government has notified the Rules inconsistent with the Central Rules, the former to that extent, are repugnant of the Central Rules and are liable to be struck down.

Having heard learned counsel for the parties, it appears that identical contention was raised before this Court in CWP Nos.147 and 1047 of 2014 (Pardeep Kumar and others vs State of Haryana and others) and (Surender Singh and others vs State of Haryana and others), respectively, which were rejected by this Court vide order dated 06.09.2016

laying down as follows:-

“(16) It is self-evident from the NCTE notification dated 29.07.2011 that the qualifications laid down by it for appointment of a Teacher or that of a Principal are “minimum qualifications”. NCTE has recommended Senior Secondary i.e. 10+2 with two years’ Diploma in Elementary Education as the minimum qualification for the post of Teacher for Classes I to V. As an alternative qualification, it has also recommended “Graduation with two year Diploma in Elementary Education” as the minimum qualification. The State Government, however, with a view to improve the quality education, has enhanced the minimum qualification from 10+2 to Bachelor of Fine Arts/B.A. instead of 10+2 along with two-years’ Diploma in Elementary Education. Such higher qualification neither is in conflict with nor does it offend the recommendations made by NCTE for a minimum qualification. The expression “minimum” leaves no room to doubt that the NCTE did not want any State Government to prescribe qualification for teaching posts lower than those recommended by it. None of the notifications issued by NCTE says or can be construed as an embargo on the powers of the State Government to prescribe a qualification higher than the one recommended by it. There is no judicial pronouncement as claimed by the petitioners’ counsel that states that the States are incompetent to prescribe qualification higher than the “minimum” prescribed by NCTE. The first and second questions are thus answered against the petitioners.

(20) Applying these principles to the facts of the case in hand, we are of the view that Appendix-B of 2012 Rules cannot be declared arbitrary or irrational merely because the rule-making authority has enhanced the qualification for most of the TGT posts including TGT Arts. The enhanced

qualification has a rationale to impart quality education as a Graduate in Fine Arts or otherwise, is legitimately expected to impart more qualitative teaching as compared to a 10+2 candidate. No vested right has ever accrued in favour of the petitioners to claim appointment even when they do not possess the prescribed qualification under the 2012 Rules. In fact the averments made in the writ petition nowhere suggests that the post of TGT Arts were advertised under the old Rules or any selection were ever made. Since such posts would now be advertised after the 2012 Rules have come into force, it is wholly misdirected to say that these Rules have rendered the candidates ineligible through retrospective operation.”

For the reasons assigned by this Court in Pardeep Kumar's case (supra), we do not find any merit in the contention raised by the petitioners.

Faced with this, learned counsel for the petitioners submits that the State Government has granted relaxation to similarly placed candidates. In support of this plea, reference is made to the 'office noting' which the petitioners have obtained under the Right to Information Act, 2005.

We have considered the submissions as a whole. The power to grant relaxation, if any, has to be exercised by the Authority prescribed under the Rules, and not by this Court. No direction can be issued by a writ Court to compel the State Government to grant relaxation even if no case within the framework of the Rules is made out. The petitioners, if so advised, may approach the Competent Authority for grant of such relaxation.

We have no reason to doubt that regardless of dismissal of the writ petition on merits, the Competent Authority shall consider the said request

sympathetically and in accordance with the said Policy.

(SURYA KANT)
JUDGE

February 03, 2017
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(SUDIP AHLUWALIA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |