

CWP-2129-2017(O&M)

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

Date of Decision : 02.05.2017

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CWP-2129-2017 (O&M)

Rakesh Kumar and Another

..... Petitioners

Versus

State of Haryana and others

..... Respondents

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CWP-2741-2017 (O&M)

Prem Prakah and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

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CWP-3136-2017 (O&M)

Kapil Dev and others

..... Petitioners

Versus

State of Haryana and others

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Sanjay Kumar and others

..... Petitioners

Versus

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CWP-3210-2017 (O&M)

Sushma Rani

..... Petitioner

Versus

State of Haryana and others

..... Respondents

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CWP-3305-2017 (O&M)

Ravinder Kumar and others

..... Petitioners

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Versus

State of Haryana and others Respondents

235-7 CWP-3321-2017 (O&M)

Virender Redhu Petitioner

Versus

State of Haryana and others Respondents

235-8 CWP-3373-2017 (O&M) (O&M)

Neeraj Kumar and others Petitioners

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235-9 CWP-4008-2017 (O&M)

Riti Petitioner

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235-10 CWP-3989-2017 (O&M)

Vijay Malik @ Vijay Rani and others Petitioners

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235-11 CWP-4009-2017 (O&M)

Manisha Aggarwal and others Petitioners

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235-13 CWP-4735-2017 (O&M)

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235-14 CWP-4871-2017 (O&M)

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235-15 CWP-5182-2017 (O&M)

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235-19 CWP-5477-2017 (O&M)

Richa Petitioner

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235-20 CWP-5480-2017 (O&M)

Sonu Rani Petitioner

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235-21 CWP-5481-2017 (O&M)

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235-57 CWP-2620-2017 (O&M)

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235-59 CWP-2993-2017 (O&M)

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235-60 CWP-3073-2017 (O&M)

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Neelam

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Surender Singh

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Gurmeet Kaur..... Petitioner

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Ritika..... Petitioner

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Ashwani Kumar..... Petitioner

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Lalit Kumar and another

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Dr. Anita Devi

..... Petitioner

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Archana Nehra and another

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Dinesh and another

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Stuti Sharma

..... Petitioner

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Sneh Lata

..... Petitioner

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Neelam

..... Petitioner

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Varsha Rani..... Petitioner

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Kavita Sharma..... Petitioner

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249CWP-8337-2017 (O&M)

Kapil Kumar Saini and others..... Petitioner

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250CWP-8767-2017 (O&M)

Poonam Devi..... Petitioner

Versus

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251CWP-6931-2017 (O&M)

Santosh..... Petitioner

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Suresh Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Vineet Kumar, Advocate.

Mr. Ashok Bhardwaj, Advocate.

Mr. Viney Phogat, Advocate for
Mr. Rajbir Sehrawat, Advocate.

Mr. Jasbir Mor, Advocate.

Mr. Kuldeep Sheoran, Advocate

Mr. Ashwani Kumar Antil, Advocate

Mr. Kanwar Satbir Singh, Advocate

Mr. Dheeraj Kumar Narula, Advocate

Mr. Chetan Chauhan, Advocate for
Mr. Gursimran Singh, Advocate

Mr. S.K.Malik, Advocate

Mr. S.S.Shekhawat, Advocate for
Mr. Ajay Shekhawat, Advocate

Mr. Sajjan Singh, Advocate

Mr. S.S.Duhan, Advocate

Mr. Namit Khurana, Advocate

Mr. Rajiv Kumar Saini, Advocate

Mr. Sumit Sangwan, Advocate

Mr. Jagjit Singh Gill, Advocate

Mr. Dharam Pal Balda, Advocate for
Mr. Mohinder Singh, Advocate

Mr. Anil Kumar Sharma, Advocate

Mr. Mahender Singh Chahal, Advocate

Mr. Jawahar Lal Goyal, Advocate

Mr. A.K.Walia, Advocate

Mr. Sachin Luthra, Advocate

Ms. Gurjit Kaur Sandhu, Advocate

Mr. Suresh Kumar, Kaushik, Advocate

Mr. Sandeep Verma, Advocate for
Mr. Minderjeet Yadav, Advocate

Mr. Munish Mittal, Advocate

Mr. Vikram Singh, Advocate

Mr. Ravinder Malik(Ravi), Advocate

Mr. Naresh Kumar Ganga, Advocate

Mr. Raghubir Tejpal, Advocate

Mr. Lekh Raj Nandal, Advocate

Mr. Harish Nain, Advocate

Mr. V.P. Sangwan, Advocate

Mr. Surinder Pal Singh, Advocate .

Mr. Subhash Rana, Advocate for
Mr. P.R.Yadav, Advocate

Mr. Anil Ghanghas, Advocate

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Mr. Deepak Achint, Advocate for
Mr. N.D.Achint, Advocate

Mr. Sandeep Lather, Advocate for
Mr. Joginder Pal Devgan, Advocate

Mr. Shalender Mohan, Advocate

Mr. Ashok Kumar Sharma, Advocate

Mr. Gurminder Singh Salana, Advocate

Mr. Manoj Makkar, Advocate

Mr. Vijay Saini, Advocate

Mr. Siddharth Yadav, Advocate

Mr. Rohit Mittal, Advocate

Mr. Parvesh K. Saini, Advocate

Mr. Sant Lal Barwala, Advocate

Mr. Deepak Bhardwaj, Advocate

Mr. S.N.Yadav, Advocate

Mr. Vikas Lochab, Advocate

Mr. Vivek K. Thakur, Advocate

Mr. Sanjeev Kumar Birla, Advocate

Mr. Karan Singh, Advocate

Mr. Balbir Kumar Saini, Advocate

Mr. Jitender Singh Chahal, Advocate

Mr. Rajender Kumar, Advocate

Mr. Bhavnik Mehta, Advocate

Mr. Aditya Yadav, Advocate

for the petitioner(s).

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Mr. B.R.Mahajan, Advocate General, Haryana with
Ms. Shruti Jain Goyal, AAG, Haryana.

AJAY TEWARI, J. (Oral)

Notice of motion in CWP Nos. 9004-2017 and CWP-9067-2017.

On the asking of the Court, Ms. Shruti Jain Goyal, AAG, Haryana accepts notice on behalf of respondents.

Learned counsel for the petitioners undertake to supply a copy of each paper book to the learned Assistant Advocate General during the course of the day.

By this group of petitions the petitioners have challenged the action of the respondents in declaring them ineligible for various teaching posts in the school cadre of the Haryana State.

The argument raised is that originally there was a School Teacher Eligibility Test (hereinafter referred to as 'STET') which had been introduced in the year 2008 and which was a necessary pre-condition for being considered for appointment as a school teacher in Haryana. All the petitioners had cleared that test. The petitioners were also applicants for Government Teaching Jobs in the school cadre of Haryana pursuant to advertisement of the year 2015. However, when the Right to Education Act came into force then the State of Haryana introduced the Haryana Teacher Eligibility Test (hereinafter referred to a 'HTET') vide notifications dated 15.7.2011 and 21.07.2011. In the Rules prescribing the HTET it was provided that the result would be valid for a period of 5 years. It was

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further mentioned that even for those persons who cleared the STET (prior to the introduction of the HTET) the period of 5 years validity would be reckoned from the date they had passed the test. Thus those candidates who had passed the test in the year 2008 would become ineligible after 5 years i.e. in 2013. The primary contention raised in the present writ petition is that by this action retrospective effect has been given to the 5 years limit. As per the learned counsel appearing on behalf of the petitioners, the applicability of the limit of 5 years could only have been made with prospective effect and the petitioners have been severely prejudiced by this precipitate action of the respondents.

Learned counsel for the petitioners have further argued that on the previous dates when the matter had come up, I had indicated to the learned State counsel that it would be difficult for this Court to permit this kind of retrospectivity and had called upon the State to reconsider the matter and had granted interim orders to all such petitioners and directed respondents to provisionally consider the petitioners for the post they have applied.

It is gratifying to note that with the intervention of the Advocate General the State has realized the precarious position it had found itself in by making the 5 years limit retrospective in operation. Learned Assistant Advocate General has placed on record clarification dated 21.4.2017 which is taken on record and marked as Mark 'A' wherein it has been decided by Additional Chief Secretary to Government of Haryana, School Education Department that the offending clauses of the notifications

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dated 15.7.2011 and 21.7.2011 shall be construed to be having prospective effect, meaning thereby that the validity of all STET certificates shall be up to 20.7.2016.

Learned Counsel for the petitioners who are all present here have accorded their satisfaction with this clarification because now they have become eligible.

In view of the aforesaid clarification, all the petitions are disposed of as having become infructuous.

Before parting with the judgment, it is clarified that this order cannot be held to benefit only those persons who had approached this Court, but it would also have to go to all those other candidates who had applied for the posts but have not approached this Court. Consequently, the respondents are directed to issue a public notice informing all such applicants who had passed the STET examination and had cleared the written test for the posts in question and had not approached this Court, but are otherwise similarly situated as petitioners, that they are now considered to be eligible and then consider their claims also.

Since the main cases have been decided, the pending Civil Misc. Application, if any, also stands disposed of.

May 02, 2017
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No