

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

**114**

**CWP No.700 of 2017**

**Date of Decision : 23.01.2017**

Monika Sachdeva

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

**\*\*\***

Present : Mr. V.B. Aggarwal, Advocate  
for the petitioner.

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**AJAY TEWARI, J. (Oral)**

By this petition the petitioner has challenged the order declaring her ineligible for the post of PGT-Home Science.

It is not disputed that the recruitment to the post of PGTs is covered under the Haryana State Education School Cadre (Group 'B') Service Rules, 2012. Appendix 'B' provides the qualifications as per which one of the essential eligibility conditions is that the candidate should have qualified the Haryana Teachers Eligibility Test (HTET)/ State Teachers Eligibility Test (STET) among others.

The contention of the learned counsel for the petitioner is

that the petitioner fulfils the other qualifications and has cleared the UGC-Net examination and prays that since that is the more difficult examination the petitioner should also be considered eligible for the same. This exact question came up before this Court in the matter of ***Aruna Mehta vs. Haryana School Teachers Selection Board and another, passed in CWP No.14695 of 2012, Decided on 02.08.2012.*** In that case it was further contended as follows:-

*“Another argument raised by the counsel for the petitioner is that the petitioner has qualified the National Eligibility Test (UGC-NET) examination for eligibility for appointment to the post of Lecturer in the subject of Psychology conducted by the University Grant Commission. She possesses the requisite qualifications apart from having passed the B.Ed. examination for appointment to the post she has applied for. Since the petitioner has qualified the National Eligibility Test (in short 'NET') conducted by the UGC and therefore, having passed the higher test cannot be deprived of the right to participate in the selection merely because she has not passed the HTET/STET. The petitioner is eligible for appointment to the post of Lecturer in the Colleges and since she possesses the higher qualification, non-possession of the certificate of having qualified HTET/STET cannot be an impediment in appointment of the petitioner as a PGT teacher and holding her ineligible for the said post. The qualification of NET should be taken as*

*equivalent to HTET/STET, thus rendering her eligible for appointment to the post applied for.”*

Further this Court in Aruna Mehta's case (supra) held as follows:-

*“Petitioner has applied in pursuance to an advertisement published on 7.6.2012 according to which, possession of qualification of passing HTET/STET is essential. Petitioner admittedly does not possess the said qualification and it is contended that since she has passed the NET conducted by the UGC, which is a much tougher test than HTET held by the Board of School Education, Bhiwani and therefore, she should be treated as eligible for appointment to the said post. This contention of the counsel for the petitioner cannot be accepted as the requirement for the post of PGT and that of a College Lecturer is totally different and so are the requirement of passing the NET and HTET. Since the posts are different, so eligibility conditions, nature and requirement of the posts vary. One set of qualification although may be tougher, as asserted by the counsel for the petitioner, would not entitle a candidate for being declared eligible if the requirement of the advertisement for the post is different which has been prescribed by the employer who is best suited to determine the eligibility and qualifications.*

*This Court, while dealing with the claim made in a writ petition that the petitioner possesses equivalent/higher*

*qualification to the one advertised for filling up of the posts and thus should be declared eligible for appointment, in CWP No. 6704 of 2011 titled as Narender Kumar and another Versus Haryana Public Service Commission, decided on 24.4.2011, relying upon various judgments passed by this Court and the Hon'ble Supreme Court, culled out the principles which are to be followed by the Courts while dealing with such situations. The relevant portion of the said judgment reads as follows :-*

*“From the above judgments it is clear that (i) the employer has a prerogative to prescribe the qualification for a particular post or service which is either prescribed under the rules and if not, depending upon the needs and requirement of the post, the employer can accordingly prescribe the same, if such a qualification has been prescribed and has been advertised the employer can insist upon strict adherence thereto. (ii) If the employer prescribes the essential qualification for appointment to a particular post and where it is not mentioned about the eligibility of the equivalent course to the prescribed qualifications either in the statutory rules or in the advertisement, absence of such a clause clearly indicates that the employer did not desire to appoint a person possessing equivalent qualification. (iii) A Court should not generally delve into determining as to whether a particular qualification is an exact equivalent to the one prescribed in the advertisement/statutory rules and leave the same to the employer to determine. (iv) Insistence on the advertisement, qualifications is also essential for the reason that if there is any deviation from the qualifications mentioned in the advertisement it would give rise to a grievance for all those who had same or even better qualifications than the appointee or appointees but who had not applied for the post because they did not possess the qualifications mentioned in the*

*advertisement. This would amount to a fraud on public as public posts are to be filled in accordance with Articles 14 and 16 of the Constitution of India and any violation thereof cannot be permitted by the Court nor can the Court be a party to such illegal process of appointment.*

*In the light of the above, challenge of the petitioners to the order of rejection of their candidature cannot be accepted.”*

*In the light of the above, the contention as raised by the counsel for the petitioner that the NET passed by the petitioner from UGC should be treated as equivalent to HTET/STET cannot be accepted.”*

I am in respectful agreement with the view of this Court in Aruna Mehta's case. Consequently, the petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

January 23, 2017  
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( AJAY TEWARI )  
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No