

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

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|------------------------------------|-----------------------|-----------------------|
| 1. | CWP-14299-2000 | |
| Mukta Sharma and others | Versus | ...Petitioners |
| State of Haryana and others | | ...Respondents |
| 2. | CWP-15063-2000 | |
| Pushpa Kumari | Versus | ...Petitioner |
| State of Haryana and others | | ...Respondents |
| 3. | CWP-16585-2000 | |
| Nasi Bala | Versus | ...Petitioner |
| State of Haryana and others | | ...Respondents |

Date of decision: - 15.11.2018

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Ram Niwas Sharma, Advocate, for the petitioners.

Mr. Vikrant Pamboo, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

By this common order, I will dispose of above-mentioned
three Civil Writ Petitions. For the sake of convenience, the facts are being
extracted from CWP No.14299 of 2000 titled 'Mukta Sharma and others
Vs. State of Haryana and others.'

Petitioners are claiming the promotion to the post of Sanskrit Teacher on the ground that 36 posts, which were available in District Jind in the year 2000, belonged to the 25% quota reserved for the JBT Teachers for promotion as Sanskrit Teacher. A contention has been raised that the department rather than giving 36 posts to the promotees, have issued an advertisement for making the recruitment to 27 posts by way of direct recruitment and only 9 posts are being given to the JBT Teachers for promotion. This action of the department is under challenge in the present petitions.

The facts which have been narrated in the petition are that Haryana Government had formulated a policy vide circular dated 03.06.1977 for making promotion to the post of Shastri/Hindi/Punjabi Teachers to the extent of 25% of the vacancies amongst from JBT Teachers, who possessed the requisite qualification. It has been contended that the operation of the said policy was stayed by the Government of Haryana in the year 1984 and no post was given to the JBT Teachers for promotion.

Vide circular dated 05.05.1995, the State of Haryana again reiterated its earlier policy of grant of promotion to the extent of 25% to the JBT Teachers who fulfilled the qualification. From the pleading, it transpires that the petitioners were appointed in November, 1995 after they were selected by the Haryana Subordinate Service Commission, Chandigarh. They are claiming promotion to the post of Sanskrit Teacher to the extent of 25% of the vacancies. It is not disputed that there were 36

vacancies in District Jind, which were to be filled up by the department.

The State of Haryana had issued a circular in the year 1977 by which 25% of the vacancies for promotion to the post of Shastri/Hindi/Punjabi Teachers to be filled up amongst the JBT Teachers, who possessed the requisite qualifications as mentioned in the said circular. The scheme which was in existence since 03.06.1977 was done away on 28.11.1984 after which, no vacancy under the scheme formulated on 03.06.1977, was given to the JBT Teachers for promotion as Sanskrit Teacher. The said status continued till 05.05.1995 when the Government again decided to give 25% of the vacancies to the JBT Teachers for promotion as Sanskrit Teacher, who fulfilled the qualification. The said circular has been appended as Annexure P-2 with the present writ petition. As mentioned earlier, all the petitioners have been appointed as JBT Teachers after issuance of the said circular dated 05.05.1995. The petitioners, who were JBT Teachers, made a claim to the vacancies, which are lying vacant with the department for promotion as Sanskrit Teacher. In order to press their claim for promotion, against the available vacancies in District Jind, on 26.11.1999, the petitioners gave a legal notice to the respondents to make promotion. The said legal notice was replied by the District Education Officer, Jind on 29.09.2000. In reply to the said legal notice, the petitioners were informed that since 1998 there was only 36 vacancies have come into existence. Meaning thereby only nine posts come in their share, against which four promotions had already been made. Further respondents stated that in view of non-joining of

certain candidates, there were seven vacancies which were in existence and the same will be filled up on the basis of seniority. It has been admitted by the petitioners that vide order dated 29.09.2000 (Annexure P-3), the department made seven promotions.

Petitioners are claiming that all the 36 vacancies needs to be available by way of promotion keeping in view the fact that no promotion was effected from 1984 till 1995 and therefore rather than filling up the 27 vacancies by way of direct recruitment, all the 27 vacancies should be given to 25% quota for promotion.

The claim of the petitioners has been controverted by the State and in its reply it has been stated that 36 posts have become available after 25% quota was given to the JBT Teachers again in 1995 and hence only nine posts come to the share of promotees and remaining 27 are to be filled up by direct recruitment for which an advertisement has also been given. Nothing has been mentioned about the outcome of the advertisement but as there is nothing to contrary, it cannot be safely presumed that the direct appointment would have been made against 27 posts, which were being claimed by the petitioners for their promotion.

It has been further admitted by the petitioners that they have been promoted in the year 2001 against the vacancies which became available under 25% quota for JBT Teachers.

I have heard learned counsel for the parties and perused the record.

The contention which has been raised by the counsel for the petitioners that all the 36 vacancies of Sanskrit Teacher which were available in District Jind to be filled up, should be given to the promotees under 25% quota keeping in view the fact that no promotion was made from 1984 till 1995 cannot be accepted. There is no challenge to the order which was passed by the department in November, 1984 when the promotion of the JBT Teachers to the extent of 25% was stayed. Further, the petitioners were not even in service when the promotion were stayed in the year 1984. The petitioners only came into service November, 1995 as JBT Teachers and it is only three years thereafter they become eligible to be considered for promotion as Sanskrit Teacher. The State of Haryana was well within its rights to contend that the vacancies which had arisen after 05.05.1995 are to be given 75% by way of direct recruitment and 25% by way of promotion from JBT Teachers and therefore, out of the 36 vacancies, 9 have been given to the promotee quota and the senior most JBT Teachers have been promoted and the petitioners could not make up within those nine posts being lower in seniority. Further, 27 posts have already been filled up by way of direct recruitment and all those persons must be working prior to the date when the petitioners were promoted in the year 2001. Circular dated 05.05.1995 has to be operated prospectively only and therefore the contention raised by the State of Haryana that only nine vacancies can be given out of 36 vacancies available to the JBT cadre is perfectly valid and legal.

Further, the petitioners face another difficulty. None of the persons, who are appointed by way of direct recruitment against 27 posts, which posts are being claimed by the petitioners for their promotion, is a party to the present writ petitions. In the absence of the same, no order prejudice to those 27 persons, who have been directly recruited can be passed. Under these circumstances also, the petitioners cannot be granted promotion with retrospective effect from the year 2000, as being claimed by them.

In view of above, the claim of the petitioners fails and the present writ petitions are dismissed, with no order as to costs.

November 15, 2018
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**(HARSIMRAN SINGH SETHI)
JUDGE**

Whether reasoned/speaking?	Yes
Whether reportable?	No