

CWP No.24377 of 2016 and connected cases

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.24377 of 2016

Suman

...Petitioner

Vs.

State of Haryana and others

...Respondents

2. CWP No.9570 of 2017

Pawan Kumar

...Petitioner

Vs.

State of Haryana and others

...Respondents

3. CWP No.9963 of 2017

Poonam Rani

...Petitioner

Vs.

State of Haryana and others

...Respondents

4. CWP No.5198 of 2017

Vandana

...Petitioner

Vs.

State of Haryana and others

...Respondents

Date of Decision: 20.04.2018

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

**Present:- Mr. P.R. Yadav, Advocate,
for the petitioner in CWP No.24377 of 2016 and
CWP No.9570 of 2017.**

Mr. Manjeet Singh, Advocate,
for Mr. Jasbir Mor, Advocate,
for the petitioner in CWP No.5198 of 2017.

Mr. Sumit Sangwan, Advocate,
for the petitioner in CWP No.9963 of 2017.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. K.K. Gupta, Advocate,
for respondent No.3.

Mr. Sandeep Jasuja, Advocate,
for respondent No.4-NCTE
in CWP Nos.24377 of 2016 and 9570 of 2017.

Mr. Ashish Rawal, Advocate,
for respondent No.4-NCTE
in CWP Nos.5198 of 2017 and 9963 of 2017.

RAJIV NARAIN RAINA, J.(Oral)

1. This order will dispose of CWP No.24377 of 2016 titled *Suman v. State of Haryana and others*, CWP No.9570 of 2017 titled *Pawan Kumar v. State of Haryana and others*, CWP No.9963 of 2017 titled *Poonam Rani v. State of Haryana and others* & CWP No.5198 of 2017 titled *Vandana v. State of Haryana and others* as common questions of law and fact are involved which can be conveniently decided by a common order. Facts are taken from CWP No.24377 of 2016 in which Mr. Yadav appears.
2. When this matter came up for hearing on November 28, 2016 I heard Mr. Yadav and passed the following order while issuing notice of motion to the respondents:-

“Challenge in this petition is to the advertisement No.3/2015, dated 20.6.2015 (Annex P-11 pg.82), where in the eligibility clause, Haryana Teacher Eligibility Test (HTET) qualification was mandatory for purposes of

appointment as Trained Graduate Teachers (TGT) is restricted to “respective subject for the post applied”. The post applied for by the petitioner is TGT (Physical Education). The petitioner is HTET qualified in 2011 valid till December, 2016.

The contention of Mr. Yadav is that this condition restricting HTET subject-wise is contrary to the guidelines of the National Council for Teacher Education found at pg.22 of the paper-book which deals with Paper II (for Classes VI to VIII) the Teachers' Eligibility Examination conducted by Union Government at the national level, where relevant Clause (iv) read as follows:-

“(iv) (a) For Mathematics and Science teacher:

Mathematics and Science-60 MCQs of 1 mark each

(b) For Social Studies teacher: Social Studies-

60MCQs of 1 mark each

(c) For any other teacher: either 4(a) and 4(b)

Mr. Yadav contends that his client's case falls in sub-clause (c) and therefore, qualifying HTET from Haryana School Education Board, Bhiwani would be sufficient for consideration for eligibility for appointment in subjects other than Mathematics, Science and Social Studies and would cover other subjects which were taught in schools in Haryana where sub-clause (c) permits the test to be applicable to other teachers which fall in Clauses iv (a) or iv (b) of the guidelines.

It is further submitted that the rules for direct appointment of TGT are governed by the provisions of the Haryana School Education (Groups C) State Cadre Service Rules, 2012, where the word 'respective subjects' is not used for TGT (Physical Education). All that is required is to be a holder of B.P.Ed degree or its equivalent from a University or recognized institution and Matric with Hindi/Sanskrit or 10+2/ BA/MA with Hindi as one of the subject and lastly and more importantly possession of certificate of having qualified HTET or STET. It is urged that the petitioner fulfills the eligibility conditions laid down in the rules but his name has been dropped from the selection list by applying the expression 'respective word' in the

advertisement (Annex P-11 pg.82) to his disadvantage. Accordingly, it is argued that if an ad-interim order is not passed the petitioner's case will not be processed further in the selection process and he would be deprived of an opportunity of consideration which may be difficult to cure, in case the petition is allowed. To avoid irremediable complications which may result, the respondents are put to notice.

Notice of motion, returnable by 12.1.2017.

In the meanwhile, the candidature of the petitioner would be considered provisionally in the further process of selection, subject to result of this petition, and in case the date falls before the next date fixed in the case, the petitioner would be interviewed etc. and his result kept in sealed cover till further orders.”

3. Today, parties appear through their respective counsel and the written statement of the Commission is on record. The Board of School Education, Haryana – respondent No.3 represented by Mr. K.K. Gupta, has filed its reply in CWP Nos.9963 and 9570 of 2017.

4. Heard learned counsel.

5. The State was been ill-advised to send a requisition to the Haryana Staff Selection Commission for direct recruitment to the post of TGT in different subjects with the condition of Eligibility mentioned at '(b)' of the public advertisement inviting applications from eligible candidates.

“(b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET) of respective subject for the post applied, conducted by Board of School Education Haryana, Bhiwani.

Note- The candidates those who are having/passed HTET till the date of interview after advertisement will be allowed for interview on the basis of acquiring HTET (Test) till the date of interview.”

6. The prospectus of HTET is in its relevant part under the

heading Scheme/Structure/Content prescribes as follows:-

“SCHEME/STRUCTURE AND CONTENT:

There shall be only one paper in this category. All questions will be Multiple Choice Questions (MCQs) each carrying one mark with four alternatives out of which one answer will be correct.

No. of MCQs-150; Duration of Examination: one-and-a-half hours.

Structure and Content:

(i) Child Development & Pedagogy (compulsory) 30

MCQs 30 Marks

(ii) Language I (Hindi) (Compulsory) 30

MCQs 30 Marks

(iii) Language II (English) (Compulsory) 30

MCQs 30 Marks

(iv) (a) For Mathematics and Science Teacher:

Mathematics and

Science -

60 MCQs

of 1 mark each

(b) For Social Studies teacher:

Social

Studies -

60 MCQs

of 1 mark each

(c) For any other teacher – either (iv) (a) or (iv) (b)"

7. It is rather apparent on a plain reading of the scheme that the HTET is not held in each and every teaching subject which have been advertised for the composite post of Trained Graduate Teachers (PGT) in school cadre. Items (i), (ii) and (iii) specified under the scheme are compulsory. However, item (iv) is divided into three parts which makes it manifest that HTET can be qualified in “Mathematics and Science” or in “Social Studies”. For other teachers, requirement is either subjects shown as (iv) (a) or (iv) (b).

8. The eligibility condition in advertisement No.3 of 2015 relating to the selection process when it speaks of “respective subject”, is in direct contradiction with the scheme of HTET. This is also the view taken by the

Coordinate Bench in CWP No.26795 of 2016, *Shikha Rani and another v. State of Haryana and others*, decided on October 25, 2017 of which I am in respectful agreement. There is another short order passed by Brother Amol Rattan Singh, J., on the same date in the connected cases in *Anwar Khan and others v. Board of School Education, Haryana, Bhiwani and another* clarifying that since the petitioners' contention therein is that their candidature has been rejected because they have not cleared the HTET examination with the certificate specifying that they have cleared it in the subject of Physical Education, their candidature cannot be rejected, if they have cleared the HTET either in the Math and Science stream of the examination, or in the Social Studies examination.

9. As a result, the words “respective subject” introduced in advertisement No.3 of 2015 are foreign to the Scheme envisaged in the prospectus of the test and are accordingly quashed being in direct conflict with the scheme of HTET even when the advertisement calls candidates only with certificates having qualified HTET. The words “respective subject” have to be read out of the advertised qualifications as inessential.

10. The writ petitions are allowed and wherever the expression “respective subject” exist in the eligibility criterion in the respective advertisements will stand invalidated as far as the same subject matter is concerned.

11. Therefore, selection process to fill the posts of TGT in different disciplines will henceforth proceed on the basis that those of the petitioners who have applied and possess the certificate of HTET in accordance with the “Scheme/Structure and Content” at internal p.6 of the Prospectus at

Annex P-8 with the paper-book are eligible. Eligibility shall be determined in this way by discarding concept of “respective subject” in the advertisement and final merit of the contestants drawn accordingly.

12. The requisition sent by the State/department to the respondent Commission shall stand amended in terms of this judgment and order. If the confusing expression “respective subject” was introduced by the Commission on its own, then these offending words stand quashed.

(RAJIV NARAIN RAINA)
JUDGE

20.04.2018
manju/Vimal

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>