

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

Date of Decision: 06.08.2018

**CWP No.302 of 2013**

Rajesh Kumar

...Petitioner(s)

Versus

State of Haryana &amp; others

...Respondent(s)

**CORAM: HON'BLE MR. RAJIV NARAIN RAINA**

Present: Mr. R.N. Lohan, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

**RAJIV NARAIN RAINA, J.(ORAL)**

The dispute in this case is about acquiring teaching experience in privately managed Government aided, recognized and government schools for a minimum of 4 years to exempt candidate from passing the HTET/STET (Tests) as one of the essential qualification. The Haryana State Education School Cadre (Group-B), Service Rules, 2012 provides that 4 years experience should be earned prior to coming into force of the Rules, that is, on 11.04.2012. As per Note 2, the relaxation of passing HTET/STET was by way of a one-time exemption to those candidates who have worked for 4 years till the date of notification i.e. 11.04.2012. This date has nothing to do with date of advertisement and closing date of receiving applications, which was 08.12.2012. Eligibility has to be counted as per the statutory rules framed under proviso to Article 309 of the Constitution.

The case of the petitioner is woven around the corrigendum dated 03.07.2012 of which paragraphs 7 & 8 are relevant. The same are as follows:

“7. All other terms and conditions of the Advertisement No.1/2012 dated 06.06.2012 for the post of PGT will remain same.

8. Validity date for all the degree/diploma/certificate/age/relaxation and four years experience is closing date of advertisement i.e. 15.07.2012. Any certificate after this date will not be valid.”

Learned counsel for the petitioner argues that for purposes of 4 years experience, it is the closing date i.e. 15.07.2012 that has to be taken into consideration and not the date 11.04.2012.

Admittedly, on 11.04.2012, the petitioner did not possess the requisite experience and was short by few months. The experience certificate relied upon by the petitioner is at Annexure P-1 dated 10.07.2012. The petitioner's experience certificate was earned while teaching in Tagore Senior Secondary School, Narnaund, Hisar. He had applied for the post of Post Graduate Teacher (Geography) (PGT) pursuant to advertisement dated 06.06.2012 inviting applications from eligible candidates.

It has been explained in paragraph 6 of the written statement with reference to corresponding paragraph 10 of the writ petition as follows:

“6. That in reply to Para 6 of the writ petition it is submitted that in Clause 3 (c)(i) of the corrigendum dated 03.07.2012 (Annexure P-3) it has been clearly mentioned that the candidates who have work as a teacher for a minimum 4 years till 11.04.2012 in privately managed Govt. aided schools, recognized schools and government schools are

exempted to acquire qualification of STET/HTET and B.Ed. as one time measure. It means the duration of experience of 4 years will be counted upto 11.04.2012. The dated mentioned in clause 8 of the said corrigendum regarding validity up to 15.07.2012 means that all the documents which proves the eligibility of the candidates must be issued by the competent authority before the closing date of the advertisement i.e. 15.07.2012. The validity of 4 years experience up to 11.04.2012 has already been upheld by the 1<sup>st</sup> Division Bench of this Hon'ble Court as mentioned in Para 2 of the preliminary submissions of the written statement.” (emphasis supplied)

Heard learned counsel for the parties.

The corrigendum is not a decision taken to be read in favour of the petitioner. Nor can the corrigendum be interpreted to avoid the statutory date of eligibility i.e. 11.04.2012. Even as per conditions of the corrigendum as set out in paragraph 7 thereof it is manifest that all other terms and conditions of the advertisement No.1/2012 dated 06.06.2012 for the post of PGT will remain the same. It is, therefore, the State explains, and rightly so, that evidence of 4 years teaching experience can be shown on 15.07.2012, but must relate back to experience gained prior to 11.04.2012, the date ordained by rule to confer eligibility in the context of non-passing of HTET/STET.

Besides, as pointed by the learned Law Officer from Note-1 in the Appendix to the rules, that in case of direct recruitment, the teachers working in privately managed Government aided, recognized and Government schools, are exempted to acquire qualifications of passing HTET as found in column 3 only in case they have worked as a teacher for a

minimum period of 4 years on the date of enforcement of the rules. However, the said exemption is a one-time measure.

Two of my previous judgments have been brought to my notice in Nirmala Kumari Vs. Haryana State Teachers Selection Board, Panchkula & another [CWP No.15224 of 2013 decided on 18.07.2013] and Anita Kumari Vs. State of Haryana & another [CWP No.16137 of 2013 decided on 29.07.2013]. In the both the cases, the petitioners did not possess the essential qualification of four years experience on 11.04.2012, having acquired the same after the cut-off date. It may be recalled that in Shivani Gupta & others Vs. State of Haryana & others [CWP No.15929 of 2012 decided on 21.12.2012], the Division Bench upheld the cut-off date, but struck down that part of the offending clause in Note 3, which required '*candidate must be in service as PGT on 11.04.2012 and in position on the date of applying*'. All other aspects were upheld. Thus, I have no reason to depart from view taken in any of those cases to profitably apply them to the facts of this case.

As a upshot of the preceding discussion, I find no merit in this petition and the same is hereby dismissed.

06.08.2018  
Renubala/Vimal

(RAJIV NARAIN RAINA)  
JUDGE

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|----------------------------------|------------|
| <i>Whether speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>No</i>  |