

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

**Date of decision: December 19, 2018
CWP No.30805 of 2018 (O&M)**

Sunita Rani

.....Petitioner

Versus

State of Haryana and others

....Respondents

CWP No.33525 of 2018 (O&M)

Mukesh Kumar and others

.....Petitioners

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Ajay Kumar Kansal, Advocate
for the petitioner (in CWP No.30805 of 2018).

Mr. Naveen Singh Panwar, Advocate
for the petitioners (in CWP No.33525 of 2018).

Mr. Baldev Raj Mahajan, Advocate General, Haryana with
Ms. Shruti Jain, DAG Haryana and
Mr. Vivek Saini, DAG Haryana.

A.B. CHAUDHARI, J

By way of this common order, above said both writ petitions
are being disposed of.

2. This Court while entertaining the petition, by order dated
05.08.2016 in CWP No.24595 of 2015 directed the Government of
Haryana to revisit the aspect regarding equivalence of qualification M.A.

Sanskrit/*Acharya* and B.Ed./Shiksha Shastri/Language Teachers Course (L.T.C.)/Oriental Training (O.T.). Pursuant to the said direction/order dated 05.08.2016, the Government of Haryana issued a notification dated 23.06.2017 and notified Haryana State Education School Cadre (Group B) Service (Amendment) Rules, 2017 amending the relevant Rules by substitution, which reads thus:-

“1. These rules may be called the Haryana State Education School Cadre (Group B) Service (Amendment) Rules, 2017.

2. In the Haryana State Education School Cadre (Group B) Service Rules, 2012, in Appendix-B, against serial number 9 under columns (3) and (4) for item (i) existing thrice, the following item shall be substituted, namely:-

*“(i) M.A. Sanskrit/*Acharya* with atleast 50% marks and B.Ed./Shiksha Shastri/Language Teachers Course (L.T.C.)/Oriental Training (O.T.) in Sanskrit from recognized university or conducted by the Haryana Education Department or an equivalent qualification recognized by Haryana Education Department; and;”*

3. The said petition bearing CWP No.24595 of 2015 was then finally disposed of by this Court vide order dated 11.09.2017, which reads thus:-

*“The substantive prayer made in the petition stands answered by the State by accepting (Group B) M.A Sanskrit / *Acharya*, B.Ed / Shiksha Shastri / Language Teachers Course (LTC) / Oriental Training (O.T), (Group C) Shastri and Shiksha Shastri / Language Teachers Course (LTC) / Oriental Training (O.T) as equivalent to the qualifications prescribed under the Rules to enable the writ petitioners to the benefits of*

employment.

In view of the above, the petition stands disposed of.”

4. This Court found that the equivalence has been made as per amended Rules.

5. It is not in dispute that 626 posts for Post Graduate Teachers (PGT) in Sanskrit were advertised on 28.06.2015 and the petitioners herein were eligible on that date for making application. Due to the litigation, the result of the said selection process could not be declared and thus, large number of posts are lying vacant. Now after the amendment to the Rule as aforesaid, the challenge is that the said amended Rule should be read retrospectively and not prospectively. The contention of the State Government further is that the Rule has been amended prospectively and therefore, there should be no impediment in going ahead with the selection pursuant to the advertisement dated 28.06.2015. The disposal of the writ petition bearing CWP No.24595 of 2015 should thus, be treated as the termination of the litigation. According to Mr. Baldev Raj Mahajan, learned Advocate General for the State of Haryana, the amendment is prospective and not retrospective. Learned Advocate General has made a categorical statement on instructions from the Government that even after said amendment to the Rule w.e.f. 23.06.2017, many posts have become vacant because of retirement and so on and so forth and within a period of 2 months from the result of the selection process pursuant to the said advertisement dated 28.06.2015, such candidates would definitely be considered in the light of the amended Rule, if they are otherwise eligible

as on 28.06.2015 and if in fact, they had applied pursuant to the said advertisement, in which event if they are age barred, they will be granted exemption and considered in the process of selection. To repeat, fresh advertisement will be issued for fresh available posts within a period of 2 months from the date of result of selection process pursuant to the said advertisement dated 28.06.2015.

6. The submission made by the learned counsel for the petitioners that the insertion of the word 'substituted' in the amendment should necessarily mean retrospectively, is not correct as the Apex Court itself in the case of **Gottumukkala Venkata Krishnamraju** versus **Union of India and others**, 2018 LawSuit (SC) 866, in Para-14 stated thus:-

“14. No doubt, in certain situations, the Court having regard to the purport and object sought to be achieved by the Legislature may construe the word “substitution” as an “amendment” having a prospective effect. Therefore, we do not think that it is a universal rule that the word 'substitution' necessarily or always connotes two severable steps, that is to say, one of repeal and another of a fresh enactment even if it implies two steps.....”

7. We, therefore, disposed of these petitions permitting the respondent-Government to go ahead and complete the selection process pursuant to the advertisement dated 28.06.2015 and also declare the result of the selection pursuant to said advertisement. We make it clear that from the date of declaration of such result, fresh advertisement for the vacant posts shall be issued as stated before us. We also make it clear that those who had applied pursuant to the advertisement dated 28.06.2015 shall not be debarred from consideration on the ground of age limit as stated before

us provided they are otherwise qualified and does not have any
disqualification.

8. CWP No.30805 of 2018 and CWP No.33525 of 2018 are
disposed of in the above terms.

(A.B. CHAUDHARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

December 19, 2018
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No