

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 05.02.2019****CWP No.14986 of 2013**

Anila

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ashwani Bakshi, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

1. The method of calculation of the period of experience is different for Teachers working on contract basis and Teachers working as Guest Faculty. The two types of engagements are governed by separate set of instructions i.e. dated 12.12.2008 and 27.10.2010 respectively.

2. Earlier, the method of calculation of experience for Teachers as Guest Faculty was based on periods/class work spent lecturing. This position remained in vogue till 31.03.2009. Thereafter, a formula was evolved making 220 days equivalent to one year of service experience. Applying this methodology, the Haryana School Teachers Selection Board (for short 'the Board') calculated the experience of the petitioner from 01.04.2009 to 11.04.2012 as 3 years and 11 days by excluding the period from 25.05.2007 to 31.03.2009, which period was not taken into consideration and rightly so. The petitioner, thus, fell short of 4 years experience required in terms of advertisement for the post of PGT (Geography).

3. Mr. Bakshi's argument is that 250 days to the credit of his client are more than requisite 220 days and 220 days are equal to a year of service experience as per instructions, which have been extended to recruitment vide administrative order dated 24.05.2013 in favour of a candidate passed in pursuance of directions issued by this Court on 15.03.2013 in CWP No.5602 of 2013 titled 'Gagandeep & others Vs. State of Haryana & others'.

4. On the other hand, Ms. Goyal counters that experience earned by the petitioner prior to 01.04.2009 is not covered by the instructions dated 27.10.2010 and the period has to be excluded and experience part has to be counted as per instructions dated 12.12.2008. Mr. Bakshi has nothing to offer in rebuttal on this facet of the case propounded by the State.

5. Quite apart from the arguments based on these two instructions, the petition must inevitably fail for the reason that the two experience certificates relied upon by the petitioner in his application do not add up to the requisite experience apart from another infirmity pointed out by the law officer inasmuch as the first certificate relates to experience earned on contract basis for teaching work done in Government Girl Senior Secondary School, Akehri Madanpur, Jhajjar vide certificate of experience dated 15.06.2012 for the period from 25.05.2007 up to the date of contract as Lecturer in Geography, but which document did not provide details of periods spent in service prior to 01.04.2009 and thereafter. This certificate bears the signatures of the District Education Officer, Jhajjar and is counter signed by the Director Secondary Education, Haryana, Panchkula, which fulfills the conditions of the advertisement that the experience certificate had to be signed by both the Officers.

6. However, in the second certificate regarding Guest Teacher experience in the same School that was not counter signed by the Director, Secondary Education, Haryana and was, therefore, inadmissible as proof of experience covered by that certificate. This certificate is dated 10.07.2009.

7. Ms. Shruti Jain Goyal points out that as per second certificate, the petitioner does not possess the requisite experience of 4 years, as she came from contract basis to Guest Faculty position. She started as a Guest Teacher on 25.05.2007, whereas, the date of issuance of the certificate is 10.07.2009. Therefore, by counting experience from 25.05.2007, she fails to complete the requisite experience required for eligibility.

8. The stand of the State is that neither of the two certificates are as per terms of the advertisement issued. Ms. Goyal relies on the decision of this Court rendered by me in CWP No.21576 of 2012 titled 'Karpal Singh Vs. State of Haryana & others' and 24 connected writ petitions on 18.12.2013, wherein the very provisions of the same advertisement were considered and dealt with by this Court for the same selection process including the manner of calculation of 220 days teaching work with reference to the instructions dated 27.10.2010. In that case, the petitioners had asserted that they had the requisite 4 years experience to their credit as on 11.04.2012. This Court considered the argument and held that at the end of the day, when Government equated 220 days to be counted and reckoned as a year of service, it was not meant for anything more than 'adjustment' and 'enhancement of remuneration' but was only to improve their lot and give a certain stability of tenure till they were replaced by regularly recruited teachers as found their way to direct recruitment on merit. As in that case, the present petitioner is also not qualified the HTET/STET and, therefore,

the exemption is claimed. In *Karpal Singh's* case, this Court observed as follows:

“The one time exemption granted by the State from the operation of the rules and in substitution thereof by a relaxation awarded, the experience of 4 years introduced as an equalizer only to equate experience with qualifications and the prescribed Tests which were mandatory requirements under the unamended rules. As an exemption, the provision works as a concession granted by the State. It is well settled that concessions have to be strictly construed only to further the cause or object sought to be achieved by them. It is not enough to say that the formula adopted by the Government is irrational so long as it is not arbitrary or whimsical and operates uniformly on all the competing interests or the range of selection through reasonable classification. It cannot be said that the provision is illegal, unconstitutional or arbitrary. It is no more than a workable solution to a problem arising out of operation of the guest faculty system introduced to meet an extraordinary situation arising from failure of the State in timely filling up substantive posts of teachers through direct recruitment consistent with Articles 14 and 16 of the Constitution. The Government may have been remiss in not appointing teachers through direct recruitment on regular basis and letting a GFT system infest the educational field but that does not mean that the formula adopted is absurd as no reasonably prudent person would not adopt as an alternative measure to meet emergent situation in relaxation of rule by laying down a prescribed format for calculating experience as the rule making thought fit as substitute qualification brought about by statutory amendment to the rules. There is also no direct challenge laid or reason given as to why experience of GFTs cannot be counted in weeks and therefore the attack appears to be blunted on this score. It is not for the Court to dissect the formula of working out experience in the prescribed format as it is a matter which rests in the domain of policy making. Laying down policy is the prerogative of

Government and only if such policy is perverse or irrational or discriminatory then alone judicial review can be entertained. What the policy is and what it ought to be are distant relatives and it is not for the Court to bridge the gap, if any. It has not been argued before this Court that the experience certificates in the prescribed format are not based on the method adopted in the policy instructions.

I do not find any substance or life in this petition and in the connected cases and would dismiss them.”

9. As far as the issue of counter signatures is concerned, Ms. Goyal relies on precedents in CWP No.5602 of 2013 titled ‘Gagan Deep & others Vs. State of Haryana & others’ decided on 15.03.2013; CWP No.10497 of 2013 titled ‘Rajbir Kaur Vs. State of Haryana & others’ decided on 22.07.2013; CWP No.19798 of 2012 titled ‘Ram Mehar Vs. State of Haryana & others’ decided on 24.02.2014 and CWP No.19921 of 2012 titled ‘Harinder Singh Vs. State of Haryana & others’ decided on 07.04.2015. The orders in *Ram Mehar*’s case have been upheld by the Division Bench of this Court in LPA No.1515 of 2014 decided on 26.03.2015. Thus, for these latent shortcomings found in the online application form, the Board did not commit any error in rejecting the candidature of the petitioner.

10. Accordingly, finding no illegality or irregularity in the impugned action of the Board, I have no reason to disagree with the conclusion reached and would hereby dismiss the petition.

11. Ordered accordingly. No costs.

05.02.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>