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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.9262 of 2017

Date of decision: 15.10.2019

Meena

...Petitioner

Versus

State of Haryana and others

...Respondents

Before: Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Ashok Bhardwaj, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

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

B.S. Walia, J. (Oral)

1. Prayer in the writ petition is for the issuance of a writ of Certiorari for quashing action of respondent No.2 in declaring the petitioner ineligible for the post of Trained Graduate Teacher (Punjabi) as also for the issuance of a writ in the nature of Mandamus for directing respondent No.2 to treat the petitioner eligible for the post of TGT (Punjabi).

2. Brief facts of the case leading to the filing of the writ petition are that the petitioner applied for the post of TGT (Punjabi) in response to advertisement Annexure P/1 dated 17.03.2016. Essential qualification for the post of TGT (Punjabi) as stipulated in the advertisement is as under :

“i. B.A. with at least 50% marks in Punjabi as an elective subject and 2 years Diploma in Elementary Education;

OR

B.A. with at least 50% marks as well as in Punjabi as an elective subject and 1 year Bachelor in Education (B.Ed.);

OR

B.A. with at least 45% marks as well as 50% marks in Punjabi as an elective subject and 1 year Bachelor in Education (B.Ed.) in accordance with NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and four year Bachelor in Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and four years B.A.Ed.

OR

B.A. with at least 50% marks as well as in Punjabi as an elective subject and 1 year B.Ed. (Special Education).

ii) In case of B.Ed., Punjabi as teaching subject from a recognized university.

iii) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject. Teachers Eligibility Test (STET) or 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.”

3. The advertisement also mentions that teaching experience would be considered only after acquiring essential qualification. Relevant extract of the advertisement is reproduced as under :-

“Teaching Experience:-

Experience wherever applicable will be considered, only after acquiring the essential qualification along with details of salary of the concerned post and the experience must be countersigned by the Director, Elementary Education of the concerned State even for CBSE/Central School & Navodaya Vidhalaya. Teaching experience must be for the post of TGT of the relevant subject.”

4. Petitioner appeared in HTET (Test) and qualified the same as is evident from Annexure P/3 i.e. certificate dated 20.02.2014, issued by Board of School Education Haryana, Bhiwani, in the subject area of English Language Teacher. The subjects, maximum marks and marks obtained by the petitioner in the aforementioned HTET (Test) are reproduced as under :-

Subject	Maximum Marks	Marks Obtained
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Child Development & Pedagogy	030	15
Language-I English	030	21
Language-II Punjabi	030	29
Social Studies	060	28
Total Marks	150	93
Result Qualified.		

5. Petitioner qualified the written test for the post of TGT (Punjabi) and the result was declared on 06.02.2017, vide Annexure P/2. On scrutiny of documents before being called for interview, the petitioner claims to have been declared ineligible on the ground that she had passed HTET (Test) in the subject of English Language Teacher, whereas as per essential qualification, the petitioner was required to have qualified HTET (Test) of respective subject i.e. of the post applied. In other words, the petitioner was required to have passed HTET (Test) in Punjabi subject.

6. While issuing notice of motion for 21.08.2017, this Court on 03.05.2017 directed the petitioner to be interviewed while making it clear that the appointing authority would not announce the result of the petitioner till further orders. Result of the petitioner was produced in sealed cover. On opening and perusal thereof, it reveals that the petitioner has secured '112' marks out of '200' marks in aggregate as against cut of '125' marks. However, the plea taken on behalf of the petitioner is that '112' marks which the petitioner is shown to have secured do not include the marks awardable on account of experience @ 2 marks per year of teaching experience.

7. Mr. K.K. Gupta, Advocate, learned counsel for respondent No.3 has referred to the decision of this Court dated 25.10.2017, in CWP No.26795 of 2016, in case titled as **Shikha Rani and another vs. State of Haryana and others**, and other connected writ petitions, to contend that no separate examination/paper is conducted by the Board specific to any language (whether it be English, Hindi, Sanskrit, Urdu or Punjabi) or even for Physical Education, Arts and Music while conducting HTET (Test). Even in the subject area of English Language Teacher while having secured 29 out of 30 marks, the petitioner would be deemed to have fulfilled the requirement of having passed HTET (Test) in the subject for which she had applied for selection i.e. Punjabi. Issue in one of the connected writ petitions as referred to above i.e. CWP No.16975 of 2016, was to the action of the respondents in not accepting the certificate of having passed HTET (Test) on the ground that subject area as 'Social Studies' which the petitioners sought to be changed to 'Physical Education' because an objection was being raised by the respondents that the petitioners having applied for the post of TGT (Physical Education) could not rely on the HTET (Test) certificate in the subject of 'Social Studies'. The Coordinate Bench while considering the submissions of learned counsel for the parties and on the basis of information furnished by the Board while dealing with the structure, content and the scheme of HTET (Test) for classes VI-VIII for TGT, held that no separate examination /paper was held by the Board while conducting the HTET, specific to any language (whether it be English, Hindi, Sanskrit, Urdu or Punjabi) or even for Physical Education, Arts and

Music. Consequently, the contention of the petitioners that the HTET examination must have been passed in the language in which the candidate seeks to be a teacher (TGT), was wholly misconceived where no separate paper was being held by the Board of School Education, Haryana, for HTET (in English/Hindi etc. or for Physical Education, Home Science, Arts & Music). The contention as was raised by the petitioners in the aforementioned case i.e. Shikha Rani's case (supra) which was rejected, is precisely the contention which is raised by learned Sr. DAG in the instant case. However, in view of the categorical finding of the Coordinate Bench, argument as raised by learned Sr. DAG is devoid of merit.

8. The Coordinate Bench held that in order to avoid confusion in future, the Board of School Education, Haryana, would ensure that the certificates it issued in future, would be either showing the candidate to have cleared the HTET (Math and Science) or the HTET (Social Studies) not specifying any particular subject other than the above, till the time that the Board did not hold any examination for specific languages/ Physical Education/Arts/ Music etc. In the circumstances, the petitioner possessed the eligibility for consideration for the post of TGT (Punjabi). However, the writ petition must fail in view of the fact that the petitioner secured total '112' marks out of '200' marks on the basis of written test as well as interview as against cut off of last selected candidate i.e. '125' marks in general category.

9. Learned counsel for the petitioner has vehemently contended that the petitioner has experience of TGT (Punjabi) w.e.f. April, 2007 to July, 2012 and August, 2012 till 23.04.2015, in Sunrise

Public School, as is evident from certificate bearing reference No.SPS/04/16 dated 23.04.2016, issued by Sunrise Public School and which the learned counsel for the petitioner claims to have been submitted by the petitioner to the respondents. Although the same is not on the record, the same is taken on record, copy thereof supplied to learned counsel for the respondents. Learned counsel contends that in view thereof teaching experience from April, 2007 to July 2012 and August 2013 till 23.04.2016 i.e. total of eight years is to be taken into account for award of two marks for each year of experience. In other words total of '16' marks is to be awarded to the petitioner. However, this argument of learned counsel for the petitioner holds no water in view of the categorical stipulation in the advertisement that teaching experience would be considered only after acquiring the essential qualification. A perusal of Clause-IV of the essential qualification for the post of TGT (Punjabi) as referred to above reveals that experience wherever applicable would be considered, only after acquiring the essential qualification. Consequently, the teaching experience on the post of TGT (Punjabi) would be counted only on the candidate acquiring the essential qualification stipulated in the advertisement which includes having qualified HTET (Test). The petitioner qualified the HTET (Test) only on 22.02.2014, therefore, experience prior thereto cannot be counted for award of marks on account of experience. At best the petitioner would be entitled to count experience w.e.f. February, 2014 to April, 2016, which works out to '4' marks to be awarded on account of experience in addition to '112' marks already awarded to the petitioner, thus, raising her total to '116' as

against cut of '125' marks for selection to the post of TGT (Punjabi) in general category.

10. Although the petitioner was found to be eligible for consideration for selection but in the end result, the petitioner fails to make the select list on account of getting less marks than the marks obtained by the last candidate selected on merit.

11. In the light of the aforementioned position, the writ petition is disposed of as above.

(B.S. WALIA)
JUDGE

15.10.2019

rajesh.k.khurana

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| 1. Whether speaking/reasoned | : | Yes/No. |
| 2. Whether reportable | : | Yes/No. |