

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
101

Date of decision: 05.02.2020

**CWP-26665-2016 &
CM-13580-CWP-2017**

PUJA RANI

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

..RESPONDENTS

CWP-27189-2016

ROSHAN SINGH

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr.P.S.Khurana, Advocate,
for the petitioner(s).

Ms. Anu Pal, DAG, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-13580-CWP-2017 in CWP-26665-2016

C.M. is allowed subject to just exceptions. Additional affidavit
of the petitioner and additional documents are taken on record.

CWP Nos. 26665 & 27189 of 2016

By this order, I propose to dispose of two writ petitions i.e.
CWP Nos. 26665 and 27189 of 2016. The facts are primarily being taken
from CWP No. 26665 of 2016 titled as Puja Rani vs. State of Punjab and

others, wherein the petitioner belongs to the General Category whereas in CWP No. 27189 of 2016 titled as Roshan Singh vs. State of Punjab and others, the petitioner belongs to the Scheduled Caste category.

Petitioners, in pursuance to the Advertisement dated 20.11.2015 (Annexure P-2), applied for the post of Master/Mistress in the Department of School Education. In pursuance to the Advertisement, the selection process was initiated and concluded, whereby the names of the petitioners figured in the select list but at the time of scrutiny of the documents of the petitioners, an objection was raised with regard to they having secured less than 50% marks at the graduation level. The said objection, as raised by the respondents, has been challenged by the petitioners in these writ petitions.

On 03.02.2020, upon hearing the counsel for the parties, following order was passed:-

“ The petitioner has approached this Court with a grievance that the petitioner despite having obtained the marks which would entitle them to be considered for appointment on the post of Social Science Mistress has not been issued the appointment letter on the ground that she does not have 50 per cent marks at the graduation level. This reasoning is based upon the notification issued by the National Council for Teachers Education (NCTE), dated 23rd of August, 2010, where such requirement had been laid down. A fresh notification has been issued by National Council for Teachers Education (NCTE), dated 29th of July, 2011 (Annexure R-1)

wherein the qualifications as laid down in the Notification dated 23rd of August, 2010 and 25th of August, 2010 stand amended under which the petitioner would fulfill the requisite qualification as laid down therein, which reads as follows:

“(II) Classes VI-VIII

Graduation with at least 45% marks and 1 year Bachelor in Education (B.Ed), in accordance with the NCTE recognition (Norms and Procedure) Regulations issued from time to time in this regard.”

Learned counsel for the petitioner, thus, contends that the respondents have misread the notification dated 23rd of August, 2010 in isolation without taking into consideration the subsequent notification dated 29th of July, 2011, which would now hold the field.

It is further submitted that the advertisement was issued on 20th November, 2015 and on that date the prevalent qualifications as per the NCTE norms would be fulfilled by the petitioner. Assertion has also been made that the rules governing the service for appointment to the post of Master/Mistress do not require minimum marks to be obtained at the graduation level.

Learned counsel for the State prays for a short adjournment to seek instructions in this regard.

Adjourned to 05.02.2020.

To be shown in the urgent list.

A photocopy of this order be placed on the file of connected case.”

Today, when the cases have been taken up for hearing, counsel

for the State could not dispute the factual position with regard to the subsequent notification having been issued by the National Council for Teachers Education dated 29.07.2011 (Annexure R-1). Having amended the earlier qualifications, as specified in the Notifications dated 23.08.2010 and 25.08.2010, would, therefore, hold the field. As per the new prescribed qualifications, the petitioners fulfil the same and, therefore, the objection, as raised by the respondents with regard to the petitioners not possessing the requisite qualification as per the requirement of the National Council for Teachers Education cannot sustain. It is also not in dispute that as per the statutory Rules governing the service, there is no such requirement of 50% marks at the graduation level.

It may be added here that for the Scheduled Caste category, the requirement would be of 45% marks at the graduation level but that does not hold the field any more.

In view of the above, these writ petitions are allowed.

Directions are issued to the respondents to consider the petitioners eligible and proceed to issue them the appointment letters to the post of Social Science Master/Mistress within a period of two weeks from today. Petitioners would be entitled to all notional consequential benefits from the date the persons lower in merit than the petitioners were appointed. The petitioners would be entitled to the financial benefits which is restricted to 38 months prior to today.

February 05, 2020

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No