

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

201

**CWP-3629-2019 (O&M)
Decided on : 24.08.2021**

Budh Ram

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

Ms. Kirti Singh, DAG, Haryana.

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Article 226/227 of the Constitution of India seeks directions for being selected on the post of TGT (Physical Education) in BCA Category against the Advertisement No.3/2005 dated 28.06.2015 (Annexure P-1).

The case of the petitioner is that as per the result which was declared on 04.01.2019 (Annexure P-10) as many as 46 posts have remained vacant due to the non-availability of the suitable candidates in the said category. It is submitted that in pursuance of the interim order passed by this Court on 08.02.2019, the petitioner was provisionally interviewed and has secured as many as 84 marks and the written test. It is further submitted that he has been awarded 15 marks in the interview and thus, has obtained grand total is 99. As per the result, the last selected candidate has only got 47 marks and, therefore, he seeks consideration.

Counsel for the State on the other hand has submitted that the petitioner did not appear on several occasions for the scrutiny of documents, which firstly took place on 10.05.2017 to 12.05.2017, in pursuance of the result, which was declared on 20.04.2017 (Annexure P-6). It is submitted that thereafter also he did not appear on 22.06.2017 to 24.06.2017, 19.09.2017 to 20.09.2017, the dates fixed for scrutiny of documents. It is, thus, contended that in the absence of not having appeared in the scrutiny, it is not permissible for him to take the benefit of interim order. It is further submitted that even in the notice dated 14.11.2018, it had been mentioned that if the candidates do not appear for scrutiny of documents, they will not be called for interview/viva-voce and, therefore, the benefit of interim order should not be granted to him.

It is further the case of the State that the petitioner was not qualified as such having not passed his HTET and only did so on 19.04.2018 and that is the reason he was avoiding the scrutiny process. It is not disputed that the petitioner as such has the other educational qualification and only the certificate as such of HTET has been acquired at a subsequent point of time on 19.04.2018.

Counsel for the petitioner is well justified to submit that as per the terms of the advertisement itself dated 28.06.2015 (Annexure P-1) the State had left it open that HTET passing could be after the last date but before till the date of interview. Relevant portion of the Advertisement reads as under:-

“Eligibility:-

a) Matric with Hindi/Sanskrit or 10+2/B.A/M.A. with Hindi as one of the subject.

b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET) of 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.”

In such circumstances, it is apparent that even if the petitioner has acquired his HTET qualification subsequent to the advertisement, it was as per the terms of the advertisement. Counsel has also pointed out from Annexure P-16 that the process of interview is still being carried on and even a last opportunity was granted by the State on 21.08.2016 (Annexure P-16), which was in compliance of various orders passed by this Court for various posts, which had been advertised. TGT (Physical Education) is also one of the categories for which the candidates had been given last opportunity for interview/viva voce on 30.08.2019, vide notice dated 21.08.2019 (Annexure P-16).

In such circumstances, this Court is of the opinion that the selection process was not completed and the matter was still open and the petitioner had already acquired his HTET qualification also most 1½ years earlier and by virtue of the interim order had appeared in the interview. It would, thus, be appropriate if he is granted the benefit by allowing the present writ petition.

Another factor which this Court cannot discount is that there are as many as 46 posts which are vacant in the said category and which is also of a reserved category. The petitioner has also done very well in the examination and having all the requisite qualifications, the benefit should be granted to him.

Accordingly, the present writ petition is allowed. The respondent No.3 shall forward the name of the petitioner to the respondent No.2 for appointment within a period of one month. The respondent No.2 will ensure that the order of appointment is issued to the petitioner thereafter within two months.

August 24, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No