

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.5679 of 2019(O&M)
Date of Order:28.01.2021

Sandeep Singh and others

..Petitioners

Versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ram Niwas Sharma, Advocate,
for the petitioners (in CWP No.5679 of 2019).

Mr. Ravinder Hooda, Advocate
for the petitioner (in CWP No.6173 of 2019)

Mr. Sajjan Singh Malik, Advocate and
Mr. Pankaj Midha, Advocate
for the petitioner (s)
(in CWP No.10597-2016 and
CWP No.10965 of 2016).

Mr. Samarth Sagar, Addl. A.G.,Haryana

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conferencing
on account of restricted functioning of the Courts.

By this order, Civil Writ Petition No.5679, 6173 of 2019, Civil
Writ Petition No.10597 and 10965 of 2016, shall stand disposed of.

At the outset, Mr. Samarth Sagar, Addl. A.G. Haryana, has
pointed out that the judgment passed by a Division Bench in **State of
Haryana Vs. Sandeep Singh and others**, LPA No.1992 of 2014 decided on
03.12.2014, relied upon by the petitioners has already been reversed by the
Hon'ble Supreme Court in Civil Appeal No.4546 of 2019. He, hence,
submits that the petitioners' case is now squarely covered against them by
the aforesaid judgment.

Through these writ petitions, the petitioners pray for issuance of a writ in the nature of certiorari for quashing the reversion orders from the post of Elementary School Headmasters to the post of Art and Craft Teachers while withdrawing the previously passed orders of their promotion. It is important to note that the petitioners were undisputedly recruited in the cadre of Classical and Vernacular (C&V) Teachers. Their services were governed by the Haryana State Education School Cadre (Group C) Service Rules, 1998, which were replaced by the Haryana School Education (Group C) State Cadre Service Rules, 2012 (hereinafter referred to as the '2012 Rules'). The Classical and Vernacular (C&V) teachers were converted to Trained Graduate Teachers as a decision was taken not to further recruit Classical and Vernacular (C&V) Teachers. The decision to convert them in TGT cadre was taken to remove anomaly. The Trained Graduate Teachers are entitled to be considered for promotion to the post of Elementary School Headmasters. Whereas, Classical and Vernacular (C&V) Teachers were entitled to the promotion to the post of Masters i.e. Trained Graduate Teachers.

Various writ petitions were filed in this Court and the Court interpreted the provisions of Rules to hold that once Classical and Vernacular (C&V) Teachers have been designated as Trained Graduate Teachers, then the Classical and Vernacular (C&V) Teachers are Masters for all intent and purposes and hence, entitled to be considered for promotion as Elementary School Headmasters. The judgment passed by the learned Single Judge was upheld by the Division Bench. However, the State of Haryana filed an appeal before the Hon'ble Supreme Court which, as noticed above, has been accepted resulting in reversal of the judgment

passed by learned Single Judge as well as the Division Bench. The Hon'ble Supreme Court while discussing the Scheme of the Rules, has held as under:-

15. *We find that the High Court has taken a simplistic view on the bare reading of Rule 9 (5) of 2012 Rules to hold that with the commencement of 2012 Rules, the C&V Teachers become part of TGT Cadre and as part of the TGT Cadre, they become entitled for promotion to the post of Elementary School Headmaster from the day their juniors were promoted to such post.*
16. *The appointment of the writ petitioners as C&V Teacher is prior to the commencement of 2012 Rules. The 1998 Rules contemplate direct recruitment to the post of Master and to various other disciplines, commonly called as C&V Teachers. In fact, the post of Master is a promotion post for C&V Teachers in terms of Rule 9 of the 1998 Rules. The qualification for the post of Art Master by way of direct recruitment and promotion is Graduate or Matric/10+2 with 5 years Degree/Diploma. However, for promotion the additional qualification is 3 years' experience on the post of JBT and C&V Teachers.*
17. *The post of TGT is contemplated to be filled up by direct recruitment and by promotion from amongst primary teachers/C&V Teachers. Column 3 of the Appendix B of 2012 Rules prescribes the academic qualifications and experience for direct recruitment on contract basis whereas, Column 4 prescribes academic qualifications and experience for appointment other than by direct recruitment on contract basis. The qualifications for filling up the post of TGT by way of promotion are B.F.A/B.A and 2-year Diploma in Elementary Education; or B.F.A/B.A with at least 50% marks and 1-year Bachelor in Education (B.Ed.); or B.F.A/B.A 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; or Senior Secondary (or its equivalent) with at least 50% marks and 4 year B.A. Ed. Etc. and 3 years' experience as Primary Teacher (PRT)/ Classical & Vernacular (C&V) Teacher. Thus, the post of TGT is a promotion post for C&V Teachers as well.*
18. *Therefore, the reading of the entire 2012 Rules shows that the Masters appointed under 1998 Rules alone were holding equivalent post to that of the members of the cadre of TGT. It is such category alone who are entitled to be promoted to the post of Elementary School*

Headmaster in terms of the qualifications prescribed in Appendix B particularly in view of Rule 2(h) and Rule 7 of the 2012 Rules. TGT means a Trained Graduate Teacher in the relevant subject appointed after notification of the 2012 Rules and include the Masters appointed before the notification of these Rules. Therefore, the Masters appointed in terms of 1998 Rules are only the Trained Graduate Teachers in terms of 2012 Rules. The post of Master under the 1998 Rules or the Post of TGT under the 2012 Rules is in fact promotion post for the C&V Teachers.

19. *The entire argument of the appellants is based upon the expression used that C&V Teachers governed by 1998 Rules shall be “converted to TGT in relevant subject”. The question is whether such C&V Teachers stand upgraded to the post of TGT though, their promotion channel under 1998 Rules was to the post of Master which alone has been treated as TGT as defined in Rule 2(h) of the 2012 Rules and in view of express language of Rule 7 which mandates that the appointment shall be made to the post of TGT only in accordance with the qualifications prescribed in 2012 Rules.*
20. *The reading of the Rules would show that C&V Teachers are treated to be TGT so as to avoid anomalous situation where the C&V Teachers after the commencement of 2012 Rules would not be governed by any set of Rules. Therefore, the expression that such C&V 14 Teachers stand converted to TGT is only to facilitate their service conditions to be governed by the 2012 Rules rather than to upgrade the C&V Teachers as members of TGT Cadre. The feeder and the promotional cadre cannot be treated at par by virtue of the expression used in Rule 9 (5) of 2012 Rules that the C&V Teachers shall be converted to TGT. Such conversion is only for a limited purpose of 2012 Rules being extended to them and that such C&V Teachers do not become member of the “cadre” eligible for promotion as Elementary School Headmaster. Rule 9(5) of 2012 Rules does not use the word “cadre”. Therefore, such teachers cannot be treated to be part of TGT cadre. Such interpretation is further supported by the fact that C&V Teacher is a dying cadre and no further recruitment is to be made in these categories.*
21. *Such C&V Teachers, if eligible, can seek appointment by way of a direct recruitment or other than by direct recruitment in terms of the academic qualifications and experience contained in Appendix B of 2012 Rules but they cannot be treated en masse as members of TGT Cadre. The State may consider to provide opportunity to*

such teachers for appointment as TGTs.”

This Court has heard learned counsel for the parties at length and with their able assistance perused the paper books.

Learned counsel for the petitioners contends that as per Rule 9 (5) of 2012 Rules, members of the Classical and Vernacular (C&V) Teachers were converted into Trained Graduate Teachers and therefore, for all intents and purposes, they become members of the cadre of Trained Graduate Teachers. He further submits that certain juniors to the petitioners who are similarly situated have also been promoted. He further contended that Rules 9 and 11 of 2012 Rules have not been quashed.

On the other hand, Mr. Samarth Sagar, Additional Advocate General, Haryana, has submitted that the Hon'ble Supreme Court while interpreting the provisions of these very Rules has held that since the cadre of Classical and Vernacular (C&V) Teachers was a dying cadre, therefore, they were only notionally converted in the cadre of Trained Graduate Teachers so as to avoid anomalous situation. He submits that Classical and Vernacular (C&V) Teachers were never treated equivalent to the Masters or their posts were never upgraded to the post of Trained Graduate Teachers.

After having considered the arguments of the learned counsel for the parties, this Court is of the view that the judgment passed by the Hon'ble Supreme Court covers various aspects of the arguments of learned counsel for the petitioners. It has been specifically held that the Classical and Vernacular (C&V) Teachers are not entitled to be promoted as Elementary School Headmasters which is a promotional post from the cadre of Trained Graduate Teachers. On analysis of the Rules, the Court went on to hold that Classical and Vernacular (C&V) Teachers cannot be treated as

members of Trained Graduate Teachers cadre for the purpose of promotion to the post of Elementary School Headmasters.

As regards, arguments of the learned counsel for the petitioners that certain juniors to the petitioners are being retained as Elementary School Headmasters, it may be noted that those teachers are Sanskrit teachers and there is a separate quota for promotion from Sanskrit teachers to Elementary School Headmasters as per Rule 9(1)(a)(iii) of 2012 Rules.

Next argument of learned counsel for the petitioners is also to be noted and rejected, particularly when the Hon'ble Supreme Court on interpretation of Rules has held that the posts of Classical and Vernacular (C&V) Teachers do not stand upgraded to the post of Trained Graduate Teachers for the purpose of promotion. Then there is no occasion to quash the rules.

Keeping in view the aforesaid facts, no ground to issue the writ as prayed for.

Dismissed.

January 28, 2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No