

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

CWP-15273 -2016 (O&M)

Date of decision : December 23, 2021

Surinder Kumar and ors.

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. P.K. Goklaney, Advocate,
for the petitioners.

Ms. Harsimrat Rai, DAG, Punjab
for the respondents No.1 to 3.

Mr. Rajiv Atma Ram, Sr. Advocate assisted by
Mr. Arjun Pratap Atma Ram, Advocate,
for respondent Nos.4 to 12.

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MAHABIR SINGH SINDHU, J.

Present writ petition has been filed for quashing of the impugned public notice dated 30.06.2016 (P-5), whereby it was decided that candidates who applied against 646 posts of Physical Training Instructors, for short "PTIs", from 09.05.2011 to 30.05.2011 would only be allowed to participate in the written test scheduled to be held on 29.07.2016; or in the alternative to allow the petitioners to participate in the on-going selection process for the posts in question on the basis of public notice dated 30.06.2016.

2. Facts are not in dispute.

3. The Department of School Education, Government of Punjab issued an advertisement dated 07.05.2011, for filling up various posts viz.

25 Lecturers Physical Education; 645 DPEs (Master Cadre) as well as 646 posts of PTIs and relevant part of which reads as under:-

**““PUNJAB GOVERNMENT
SCHOOL EDUCATION DEPARTMENT
Recruitment for appointment of School Teachers on Contract
basis.**

Eligible candidates are being invited to apply on-line on prescribed proforma available on <http://recruitment.cdacmohali.in> from dated 09.05.2011 to 30.05.2011 till 05.00 p.m. personally or through Service Centers for the vacant posts in Education Department, Punjab, as under:-

Description of Posts- Teaching Cadre:

1. Name of Post:	Lecturer Physical Education/ Number of Posts-25.
Salary payable-	Initial salary of Rs.16290/- lump sum shall be paid in the pay scale of Rs.10300-34800+4200 grade pay.
Basic Qualifications:	Master of Physical Education.

2. Name of Post:	DPE(Master Cadre)/ Number of Posts-645
Salary payable-	Initial salary of Rs.14,430/- lump sum shall be paid in the pay scale of Rs.10300-34800+3600 grade pay.
Basic Qualifications:	In addition to Graduation from a recognized University must have passed Advance Physical Education Training Course Degree or Diploma.

3. Name of Post:	P.T.I./ Number of Posts-646.
Salary payable-	Initial salary of Rs.13,500/- lump

	sum shall be paid in the pay scale of Rs.10300-34800+3200 grade pay.
Basic Qualifications:	Must have passed 10+2 and Diploma in C.P.Ed. from any recognized institute.

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COMMON ELIGIBILITY TEST:

For above posts applicants must have passed T.E.T. Test under R.T.E. Act as per N.C.T.E. Guidelines.

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SELECTION CRITERIA:

As per criteria, weightage of higher qualification shall be given in concerned subject only.

The schedule of Counselling for concerned categories will be uploaded on the Website <http://recruitment.cdacmohali.in>.

GENERAL CONDITIONS:

- 1.
- 2. These appointments for all categories will be on contract basis on payment of lump sum salary, initially for a period of three years. In case the work and conduct of applicant is found satisfactory, then he/she will be considered for regular appointment.
- 3. to 13.
- 14. Joint merit list will be prepared for male and female applicants.
- 15. Preference shall be given to applicants who have attained educational qualifications on regular basis.
- 16.

HOW TO FILL UP THE ON-LINE APPLICATIONS:

1 to 4.....

- 5. Those candidates, who will be called for Counselling after the initial scrutiny, their information will be uploaded after 10.00 a.m. on the Website: <http://recruitment.cdacmohali.in>. Vide this process, their original Certificates will be checked. In this

regard, date and place of Counselling will be informed through Punjabi, Hindi and English newspapers.”

4. Later on, after making some changes in terms and conditions, respondents issued a public notice dated 24.01.2014, thereby inviting fresh applications for above two segments i.e. 25 posts of Lecturer Physical Education and 645 DPE (Master Cadre), but restricted the cut-off date for acquisition of requisite qualification as on 30.05.2011.

Aggrieved against above action, some aspirants filed **CWP-10727-2014** titled as **Suresh Kumar & others Vs. State of Punjab and another** and other connected matters and which were allowed on 26.02.2015, with the following observations:-

“To the mind of this Court, this process can be termed to be de novo and cannot by any stretch of imagination be termed as in continuation of earlier process of 07.05.2011. Had it been so, then the persons, who had applied earlier would not have been required to apply afresh and their amounts against the processing fees also did not warrant any return. Evidently the intention of the respondents was to do fresh selection process, which they undertook in 2014 and if that is so pegging the date of acquisition of qualification of date on 30.05.2011 would be clearly arbitrary as it would effect all eligible candidates, who have acquired the qualification upto 2014 when the public notice Annexure P-2 was given out. The respondents by placing an interpretation of the process being a continuation of 2011 public notice would oust the incumbents who acquired the qualification subsequently after 2011, which in the opinion of this Court is not permissible in law.

Consequently, the writ petitions are accepted and the respondents are directed to initiate the fresh process of selection by inserting a public notice and taking into consideration the eligible candidates, who have acquired the qualification upto the date which is close approximately to the intended public notice. The aforesaid

observation would result in cancellation of entire process so far undertaken by the respondents.”

In compliance of above order, the ongoing selection process for 25 posts of Lecturer Physical Education as well as 645 DPE (Master Cadre) was cancelled by respondents vide public notice dated 05.05.2015. Even as on today, parties are not aware as to whether the selection for above two segments has been finalized or not?

It is necessary to mention here that selection process for 646 posts of PTIs was not the part of public notice dated 24.01.2014; nor it had been subject matter of challenge in CWP No. 10727 of 2014 and other connected case(s).

5. After consuming a period of 05 (five) years, the respondents issued present impugned public notice dated 30.06.2016, whereby it was decided that applicant(s) will have to appear in written test of 200 marks and the candidate(s) obtaining 50% marks will be eligible (relaxable 5% to reserved category). For reference, public notice dated 30.06.2016 is reproduced hereunder:-

**“OFFICE OF DIRECTOR, EDUCATION RECRUITMENT
DIRECTORATE, PUNJAB**

**Government Model Sr. Sec. School, Phase 3/B-1,
SAS Nagar**

Website (www.educationrecruitmentboard.com)

PUBLIC NOTICE

Punjab Government School Education Department published advertisement in different newspapers for recruitment to the posts of PTI Teachers inviting on-line applications on <http://recruitment.cdacmohali.in> from 09.05.2011 to 30.05.2011 till 05:00 P.M. The applicants will have to appear in written test of 200

marks (Aptitude-100 marks and Subjectwise-100 marks). The candidates obtaining 50% marks will be eligible and relaxation of 5% marks will be given to reserved category candidates. The level of aptitude test would be equal to 12th class and related subject shall have the level of C.P.Ed. The syllabus for the written test has been uploaded on the web-site of the department on www.educationrecruitmentboard.com. The written test will be taken as per the following schedule:-

Subject	Date	Session	Time	Duration
P.T.I.	29.07.2016	Evening	2:30 pm to 5:50 pm	3 Hours 20 Minutes

The related candidates are informed to download their admit cards from the official website of the Department www.educationrecruitmentboard.com for the written test.

Sd/-
Director Education Recruitment Directorate,
Punjab”

Aggrieved against the above action of the respondents, present writ petition has been filed.

6. CONTENTIONS:
ON BEHALF OF PETITIONERS

It is contended by learned counsel for the petitioners that respondents vide public notice dated 30.06.2016 decided to conduct a written test for selection to posts in question; but restricted the same only to candidates who applied before 30.05.2011. Further contended that petitioners acquired the requisite qualification subsequent to 30.05.2011, but prior to the public notice dated 30.06.2016; thus, they be also allowed to participate in the ongoing selection process as well as the written test. To support their contention, reference has been made to the order dated

26.02.2015 passed in CWP No. 10727 of 2014 and other connected matters.

BY RESPONDENTS

On the other hand, learned State counsel opposed the prayer while submitting that none of the petitioners applied before the cut-off date i.e. 30.05.2011; nor they were qualified on or before that date. She further submitted that petitioners have acquired their qualifications subsequent to the last date of submission of applications; thus, they cannot take the benefit of public notice dated 30.06.2016 for participation in the on-going selection process and the written test.

Learned Senior counsel appearing on behalf of private respondents No.4 to 12 also opposed the prayer of petitioners on the premise that none of them was eligible on the last date of submission of applications; nor they have ever submitted their applications in pursuance of the advertisement dated 07.05.2011. Further submitted that petitioners are only the *fence sitter*; thus, they have no cause of action for laying their claim on the basis of public notice dated 30.06.2016. Again submitted that acquisition of requisite qualification on the cut-off date was pre-requisite and as such the petitioners have no right for consideration at all. Learned senior counsel also submitted that order dated 26.02.2015 passed in CWP No. 10727 of 2014 and other connected matters is not helpful to the petitioners for the simple reason that as in those cases a *de novo* process for selection was initiated while issuing fresh advertisement dated 24.01.2014, thus, the same is distinguishable on facts.

7. Heard both sides and perused the paper-book.

8. To decide the matter in controversy, sole point for consideration of this court, would be as under —

“As to whether in view of the facts and circumstances of present case, the petitioners have right of consideration to participate in the written test for selection against 646 posts of PTIs?”

9. It is not in dispute that as per the advertisement dated 07.05.2011, the last date for submission of applications for the posts in question was fixed as 30.05.2011. Concededly, none of the petitioners applied before the cut-off date for the reasons best known to them; or that they were not qualified till that date. The petitioners are claiming the right of consideration merely on the basis of public notice dated 30.06.2016, whereby a condition was imposed to hold written test during the on-going selection process for the post(s) in question, but the same has been quashed and set aside by this Court vide order of even date passed in batch of writ petitions (CWP-14169-2016 and other connected cases), being impermissible in law. Thus, the prime argument raised on behalf of the petitioners is liable to be rejected on that count only.

Even otherwise, on repeated asking learned counsel for the petitioners was not able to show any provision of law or statutory rule to the effect that in the absence of requisite qualification on the cut-off date, the petitioners have a right of consideration against the post(s) in question.

10. As a result thereof, this Court is of the opinion that petitioners have no right for consideration at all against the on-going selection process for 646 posts of PTIs. Consequently, there is no option except to dismiss the writ petition.

- 11. Ordered accordingly.
- 12. Pending application(s), if any, shall also stand disposed off.

December 23, 2021
atulsethi/sanjay

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No