

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20670-2020(O&M)

Date of decision: 28.04.2021

Rajpal Kaur and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Aggarwal, Sr. Advocate with
Mr. Mukul Aggarwal, Advocate for the petitioners

Mr. T.P.S.Chawla, DAG, Punjab

ANIL KSHETARPAL, J.

1. Through this writ petition, the petitioners have prayed for the following substantive reliefs:-

“(i) set aside Seniority List (Annexure P-13) dated nil, as arbitrary, illegal and in violation of Rule 11 of the Punjab State Elementary Education (Teaching Cadre) Group 'C' Service Rules, 2018 (Annexure P-4);

(ii) issue mandamus to the respondents for preparing/restoring the original seniority list of Centre Head Teachers, which was prepared and maintained at 'District Level' in terms of mandate of

Rule 11 of the Punjab State Elementary Education (Teaching Cadre) Group 'C' Service Rules, 2018 (Annexure P-4);

(iii) issue mandamus to the respondents for considering the petitioners for promotion as Block Primary Education Officers, in their respective districts, as per their seniority in their respective districts;

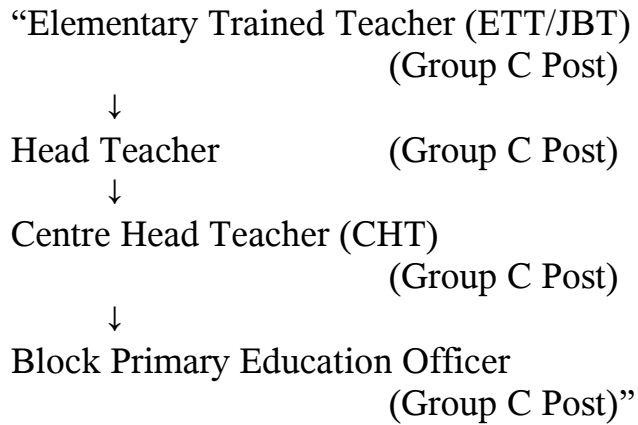
(iv) stay the operation and implementation of the impugned Seniority List (Annexure P-13), during the pendency of the present petition before this Hon'ble Court;

(v) restrain the respondents from carrying out any appointment or promotion to the post of Block Primary Education Officer on the basis of Seniority List (Annexure P-13) during the pendency of the present petition before this Hon'ble Court;

(vi) staying the Advertisement No.7 dated nil (Annexure P-16) during the pendency of the present writ petition.”

2. The petitioners are working as Central Head Teachers in their respective Districts. The cadre of Primary Teachers who are also known as JBT Teachers or Elementary Trained Teachers used to include Elementary Trained Teacher or JBT, Head Teacher, Central Head Teacher & Block Primary Education Officer. Learned counsel for

the petitioners has depicted the hierarchy of the posts by drawing a pictorial diagram which is extracted as under:-



3. In the year 1998, the State of Punjab notified the Punjab State Education Class III (Primary School Cadre) Service Rules, 1997. The aforesaid four posts in the hierarchy namely Junior Basic Trainer Teacher/EET, Head Teacher, Central Head Teacher and Block Primary Education Officer were governed by the aforesaid rules and all these posts were District Cadre posts. Thereafter, in the year 2018, the State of Punjab bifurcated the teachers into two different groups. A separate cadre was created for the teachers posted in the border areas. The State of Punjab notified the Punjab State Elementary Education (Teaching Cadre) Cadre C Service Rules, 2018 while repealing the 1997 rules. Similarly, for primary teachers posted in the border area, the State notified new rules namely the Punjab State Elementary Education (Border Area) Group C Rules, 2018. As per the 2018 Rules, the aforementioned posts of JBT Teachers/Elementary Trained Teacher and Head Teacher and Central Head Teacher were notified as District Cadre posts. As per Rule 11 of the 2018 Rules, the seniority list of the members of the service was required to be maintained at the District level.

4. The State further notified the Punjab State Elementary Education (Administrative Cadre) Group ‘B’ Service Rules, 2018. Similarly, for the Border area, the Punjab State Elementary Education (Administrative Cadre) Group ‘B’ Service Rules, 2018 were notified. As per these rules, the post of Block Primary Education Officer was again notified to be a District Cadre post and Rule 10 provides that the seniority list of the members of the service shall be maintained in the respective District. Under the rules, the post of Block Primary Education Officer is a Group ‘B’ post. 50% of the posts are to be filled up by direct recruitment whereas the remaining 50% posts are reserved for promotees. For the purpose of promotion, the feeder cadre would be the Central Head Teachers working in the same District in which the promotions are to be made. Identical rules have been framed for Border area group.

5. On 13.02.2020, the State amended the Punjab State Elementary Education (Administrative Cadre) Group ‘B’ Service Rules, 2018 and declared that the post of Block Primary Education Officer shall be a State Cadre post. Other consequent amendments were notified. The amended Rule 10 and Appendix B of 2018 Rules read as under:-

“10. Seniority of members of service- The seniority of members of the Service shall be maintained at the State level.”

Designati on of the post	Percentage of appointment by		Qualification and experience for appointment by	
	Direct appointment	Promotion	Direct appointment	Promotion
1	2	3	4	5

Block Primary Education Officer	Fifty percent	Fifty percent	(1) should have passed Bachelor's Degree with atleast 50% marks from a recognized university or institution as per guidelines of the University Grants Commission; (2) Should possess two years Elementary Teachers' Training Course from a recognized university or institution or two years Diploma in Elementary Education (D.El.Ed.) as per guidelines of the National Council for Teachers' Education or Bachelor Degree in Education (B.Ed) from a recognized university or institution as per guidelines of the University Grant Commission; (3) Should possess teaching experience of working as Primary School Teacher for a minimum period of three years in any Government school, under the control of the Director.	From amongst the Centre Head Teachers working under the control of the Director in the respective districts other than the districts falling in the Border Area with three years experience as Central Head Teacher on seniority-cum-merit basis.
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6. It is important to note that there is no challenge to the correctness of the amended Rules.

7. Learned senior counsel representing the petitioner contends that the respondents have erred in preparing a State level seniority list of the Central Head Teachers. He submits that the post of Central Head Teacher is a District Cadre post and therefore, preparation of the seniority list at the State level is wrong. While elaborating the same, he contends that as per the rules, a definite number of posts of Block Primary Education Officer are allocated to each District as per Appendix A and therefore, the preparation of seniority list at the State level is wrong.

8. Per contra, learned State counsel submit that on 04.12.2020 it has already been clarified that a joint seniority list has

been prepared only for the purpose of considering the candidates for promotion to the post of Block Primary Education Officer which is now a State cadre. He contends that as per the Rules framed in the year 2018, the post of Block Primary Education Officer was put in a separate administrative cadre. He further contends that in view of the amendment in the year 2020, now the post of Block Primary Education Officer is a State Cadre post and therefore, to make promotions to the said post, a list has to be prepared for considering the eligible candidates for promotion on seniority-cum-merit basis. He, hence, prayed for the dismissal of the writ petition.

9. After having evaluated the arguments of the learned counsel for the parties, this Bench is of the considered view that there is no substance in the writ petition. It is not in dispute that in view of the amendment in the service rules carried out through an amendment of the Punjab State Elementary Education (Administrative Cadre) Group 'B' Service (First Amendment), Rules, 2020, the post of Block Primary Education Officer has been declared to be a State cadre post. Once the promotion, transfer etc. is to be made at the State level, then some sort of combined list has to be prepared before considering the eligible candidates. As per the prevailing service rules, the promotion is to be made on seniority-cum-merit basis. The State has only undertaken the aforesaid exercise. It has been clarified in communication dated 04.12.2020 that this list is only for the purpose of making promotions. In the considered view of this Bench, there is no illegality in the impugned seniority list so prepared. The post of Central Head Teacher is still a District Cadre post and there is no change for

the promotion to the post of Central Head Teacher. It is not the case of the petitioner that the post of Central Head Teacher has also been treated as a State Cadre post. In view thereof, again, there is no illegality in the preparation of the impugned seniority list.

10. Next argument of the learned counsel representing the petitioner is also without substance because once, pursuant to the amendment in the year 2020, the post of Block Primary Education Officer has been declared to be a State Cadre post then the allocation of a fixed number of posts to various Districts has become redundant. As per the amended rules, the post of Block Primary Education Officer is a State Cadre post and therefore, promotion has to be made on seniority-cum-merit basis. Appendix A attached to the Rules was relevant when the post of Block Primary Education Officer was a District Cadre post. Now, since the post of Block Primary Education Officer has been declared to be a State Cadre post, therefore, all the posts allocated to the different Districts stand merged. Hence, there is no error in the decision taken by the State.

11. Keeping in view the aforesaid discussion, there is no merit in the present writ petition. Hence, the writ petition is dismissed.

28.04.2021

rekha

Whether speaking/reasoned

Whether Reportable

Yes /No

Yes / No

**(ANIL KSHETARPAL)
JUDGE**