

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

CWP No. 1914 of 2022
Date of decision: 03.02.2022

112

Sandip Singh and others

...Petitioner(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. H.C. Arora, Advocate,
for the petitioners.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

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

G.S.SANDHAWALIA, J. (Oral)

The petitioners, in the present petition filed under Article 226 of the Constitution of India, challenge the educational qualifications provided in Appendix B to the Punjab Educational (Teaching Cadre) Group C Service Rules, 2018 as notified on 21.05.2018 (Annexure P-7) and further amended on 16.07.2021 (Annexure P-8), which prescribe the necessary qualifications for the post of Art and Craft Teachers. The challenge has also been raised to the advertisement dated 08.01.2022 (Annexure P-9) and the corrigendum dated 18.01.2022 (Annexure P-10) wherein, applications have been invited for filling up 250 vacancies of Art and Craft Teachers, keeping in view the amended Rules.

The grouse as such of the petitioners is that they possess the qualification of Matric and 2 years' diploma in Art and Craft and they were duly eligible under The Punjab State Education Class-III (School Cadre) Service

Rules, 1978 (in short '1978 Rules'), which had further been amended on 08.07.1995 (Annexure P-5). Therefore, they have been wrongly rendered totally ineligible for recruitment to the post of Art and Craft Teachers. No time as such has been given to them to acquire higher qualifications to become eligible under the impugned Rules and, therefore, they have become over age. Similarly, reliance upon NCTE notification dated 29.07.2011 (Annexure P-3) is also placed that till such time the NCTE lays down the minimum qualifications in respect of such teachers, the prescription of the eligibility criteria should not have been enhanced. Admittedly, challenge is also made to the fact that the additional qualification of passing of Punjab State Teachers' Eligibility Test-2 has been wrongly made mandatory.

A perusal of the paper book would go on to show that vide notification dated 21.05.2018 (Annexure P-7), the State Government enforced the 2018 Rules. For the post of Art and Craft Teachers, as per Appendix B, the necessary qualifications were prescribed as under:-

(i) Should have passed Graduation atleast with 55% marks from a recognized university or institution with Fine Arts as a subject having studied atleast for three years in Graduation as per guidelines of the University Grants Commission; and

(ii) Should have passed B.Ed. from a recognized university or institution with Fine Arts as one of the teaching subjects as per guidelines of the University Grants Commission.”

Rule 12 of the said Rules also repealed the earlier Punjab Educational Service, Class III, School Cadre Rules, 1955 and the Rules of 1978. Thereafter, vide notification dated 16.07.2021, which was enforced on 23.07.2021 (Annexure P-8), the corresponding qualification entries were substituted as under:-

- “(i) Should have passed Graduation atleast with 55 percent marks from a recognized university or institution with Fine Arts as a subject having studied atleast for three years in Graduation as per the guidelines of the University Grants Commission; and*
- (ii) Should have passed B.Ed. from a recognized university or institution with Fine Arts as one of the teaching subjects as per guidelines of the University Grants Commission.*

OR

- (i) Should have passed Graduation at least with 55 percent marks from a recognized university or institution as per the guidelines of the University Grants Commission;*
- (ii) Should have passed B.Ed. from any recognized university or institution as per guidelines of the University Grants Commission; and*
- (iii) Should have passed 'Two Years' Diploma in Art and Craft Teachers from a recognized university, Board or institution as per guidelines of the University Grants Commission.”*

The advertisement in question dated 08.01.2022 (Annexure P-9) initially as such for the 250 posts did not mention the substituted educational qualifications of 2021 and necessary corrigendum was issued on 18.01.2022 (Annexure P-10) wherein, the recruitment as per the substituted eligibility criteria was also incorporated. The condition as such of passing Punjab State Teachers' Eligibility Test-2 for filling up the said posts was also made the requisite requirement.

Admittedly, the petitioners are Matric pass and diploma holders and, thus, cannot claim to have any vested right as such for consideration on the ground of hardship which has been alleged to be caused. It is for the employer to see what are the requisite educational qualifications for the teachers that it

wishes to employ and it is not for this Court as such, to substitute its opinion on the strength of the argument which is raised by counsel for the petitioners that hardship has been caused to them. Nothing as such could be pointed out which would go on to show that the prescription of higher qualifications, which are now in the form of Graduation with B.Ed from a recognized university or institution and having two years' diploma in the same alongwith the graduation degree can be said to be bad.

The Apex Court in ***Devender Bhaskar and others vs. State of Haryana and others, 2022 (1) SCT 51*** recently on 24.11.2021 which was pertaining to the Art and Craft courses equation which was issued by the Kurukshetra University has held that it is not for the Court to equalize diplomas/degrees. It was held that judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications. The relevant portion reads thus:-

“20. We have already noticed that one of the eligibility criteria for appointment to the post of Arts and Crafts teacher as per the advertisement dated 20.07.2006 is a "two-year Diploma in Art and Craft examination conducted by the Haryana Industrial Training Department or an equivalent qualification recognized by the Haryana Education Department." It was made clear by the Industrial Training and Vocational Educational Department, Haryana, that diploma in Art and Craft Course by the Kurukshetra University is conducted through distance education and that this course cannot be equated with two-year diploma in Art and Craft Course awarded by the Haryana Industrial Training Department. Recognition of the said Course by the State of Haryana, as held by the High Court, is entirely different from its equivalence. When the experts in the Education Department have held the diploma in Art and

Craft by the Kurukshetra University is not equivalent to the two-year diploma in Art and Craft awarded by the Haryana Industrial Training Department, we are of the view that the High Court was not justified in equalizing them.

21. In Mohammad Shujat Ali & Ors. v. Union of India & Ors (1975) 3 SCC 76, it was held that the question regarding equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards and practical attainments of such qualifications. It was further held that where the decision of the Government is based on the recommendation of an expert body, then the Court, uninformed of relevant data and unaided by technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government unless it is based on extraneous or irrelevant considerations or actuated mala fides or is irrational and perverse or manifestly wrong.

22. In J. Ranga Swamy v. Government of Andhra Pradesh and Others, (1990) 1 SCC 288 this Court held that it is not for the court to consider the relevance of qualification prescribed for various posts.

23. In State of Rajasthan & Ors. v. Lata Arun, (2002) 6 SCC 252 this Court held that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It was held thus:

"13. From the ratio of the decisions noted above, it is clear that the prescribed eligibility qualification for admission to a course or for recruitment to or promotion in service are matters to be considered by the appropriate authority. It is not for courts to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the authority."

24. *In Guru Nanak Dev University v. Sanjay Kumar Katwal & Anr., (2009) 1 SCC 610 this Court has reiterated that equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. Dealing specifically with whether a distance education course was equivalent to the degree of MA (English) of the appellant university therein, the Court held that no material had been produced before it to show that the distance education course had been recognized as such.*

25. *In Zahoor Ahmad Rather & Ors. v. Sheikh Imtiyaz Ahmad & Ors. (2019) 2 SCC 404, it was held that the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc. Judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Equivalence of qualification is a matter for the State, as recruiting authority, to determine.*

26. *Having regard to the above, in our view, the High Court has erred in holding that the diploma/degree in Art and Craft given by the Kurukshetra University is equivalent to two-year Diploma in Art and Craft examination conducted by the Haryana Industrial Training Department or diploma in Art and Craft conducted by Director, Industrial Training and Vocational Education, Haryana.”*

Keeping in view the settled position of law, the argument which is sought to be raised that vide notification of the NCTE dated 29.07.2011 (Annexure P-3), it had been prescribed that for teachers of Art Education, Craft Education, Home Science, Work Education, etc. the existing eligibility norms

prescribed by the State Government and other school management were to be applicable till such time the NCTE lays down the minimum qualifications in respect of such teachers is without any basis. Once statutory Rules as such have been framed under Article 309 of the Constitution of India, this Court is of the opinion that the State Government is justified and had only upgraded the basic eligibility criteria as such by prescribing Graduation for filling up the posts of Art and Craft Teachers. No fault as such can be found in such action. It is settled principle that it is for the employer to choose the qualifications which are required for filling up the posts and it is not for the candidates as such to hold out what should be the requirement.

The argument that for Elementary Trained Teachers, the State as such had given a concession regarding the candidates who have done or are doing elementary training course with 10+2 qualification would be considered for employment as one time measure cannot be claimed as a matter of right as such. In such circumstances, keeping in view the above observations, no such enforceable right lies with the petitioners to claim such concession in case some concession has been granted to separate set of persons.

In such circumstances, this Court is of the opinion that *prima facie*, no case is made out to entertain the present writ petition and the same is accordingly dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

03.02.2022
shivani

(VIKAS SURI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No