

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.209

Date of Decision: 27.07.2022

1) CWP-17432-2012 (O&M)

Manjeet and others

Versus

.... Petitioners

State of Haryana and others

... Respondents

2) CWP-18403-2012

Jyoti Kathuria

Versus

.... Petitioner

State of Haryana and another

... Respondents

3) CWP-17387-2012

Rekha Dahiya

Versus

.... Petitioner

State of Haryana and others

... Respondents

4) CWP-17888-2012 (O&M)

Kaviraj and others

Versus

.... Petitioners

State of Haryana and others

... Respondents

5) CWP-18048-2012

Sanjay Kumar

Versus

.... Petitioner

State of Haryana and others

... Respondents

6) CWP-18057-2012

Sanjay Kumar

Versus

.... Petitioner

State of Haryana and others

... Respondents

7) CWP-18090-2012

Parveen Kumar

Versus

.... Petitioner

State of Haryana and others

... Respondents

8) CWP-21675-2012

Sushma

Versus

.... Petitioner

State of Haryana and another

... Respondents

9) CWP-21988-2012

Harjinder Kaur

Versus

.... Petitioner

State of Haryana and another

... Respondents

10) CWP-23024-2012

Seema Goyal @ Seema Bansal and another

Versus

.... Petitioners

State of Haryana and others

... Respondents

11) CWP-480-2013

Alka Verma

Versus

.... Petitioner

State of Haryana and others

... Respondents

12) CWP-5304-2013

Anjana Kumari

Versus

.... Petitioner

State of Haryana and others

... Respondents

13) CWP-20343-2012 (O&M)

Surender Singh		 Petitioner
	Versus	
State of Haryana and another		... Respondents

14) CWP-21390-2012

Naresh Kumar		 Petitioner
	Versus	
State of Haryana and others		... Respondents

15) CWP-22462-2012

Manju		 Petitioner
	Versus	
State of Haryana and others		... Respondents

16) CWP-26046-2012

Neel Kamal		 Petitioner
	Versus	
State of Haryana and others		... Respondents

17) CWP-20054-2012

Pardeep Kumar and another		 Petitioners
	Versus	
State of Haryana and others		... Respondents

18) CWP-20082-2012

Narender Singh		 Petitioner
	Versus	
State of Haryana and others		... Respondents

19) CWP-20631-2012

Rekha Rani		 Petitioner
	Versus	
State of Haryana and another		... Respondents

20) CWP-20833-2012

Jagsir Singh and others	Versus	 Petitioners
State of Haryana and others		... Respondents

21) CWP-20869-2012

Kuldeep Singh	Versus	 Petitioner
State of Haryana and others		... Respondents

22) CWP-5355-2013

Poonam	Versus	 Petitioner
State of Haryana and others		... Respondents

23) CWP-21389-2012

Satvir Singh	Versus	 Petitioner
State of Haryana and others		... Respondents

24) CWP-5673-2013

Vimal	Versus	 Petitioner
State of Haryana and others		... Respondents

25) CWP-8733-2013

Rohtash	Versus	 Petitioner
State of Haryana and another		... Respondents

26) CWP-6247-2013

Dinesh Dutt	Versus	 Petitioner
State of Haryana and others		... Respondents

27) CWP-6249-2013

Vanita

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Anu Chatrath, Sr. Advocate with
Ms. Divya Sharma, Advocate for the petitioner(s)
in CWP Nos. 17432, 17387, 18048, 18057, 18090, 21390,
20054, 20082, 20833, 20869 and 21389 of 2012 and
CWP Nos. 5304 of 2013.

Mr. V.K. Jindal, Sr. Advocate with
Ms. Anna Thakur, Advocate and
Mr. K.S.Banyana, Advocate for the petitioner
in CWP no. 21988 of 2012.

Mr. R.K.Hooda, Advocate for the petitioner
in CWP No. 26046 of 2012.

Mr. C.P. Tiwana, Advocate for the petitioner
in CWP No. 22462 of 2012 and CWP No. 5355 of 2013.

Mr. Garvit Mittal, Advocate for the petitioner
in CWP No. 480 of 2013.

Mr. Harish Goyal, Advocate
for the petitioner in CWP No.23024 of 2012.

Mr. R.S.Budhwar, Addl. A.G.Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

By this common order, all the writ petitions, the details of which have been mentioned in the heading, are being disposed of as all of them involve similar question of law. For the facility of this order, the facts are being taken from CWP No.17432 of 2012.

In the present petition, the petitioners applied for consideration of their claim in pursuance of the Advertisement No.1/2012, published on

07.06.2012 (Annexure P-16), by which posts of PGT in various subjects were advertised. The petitioners, who had not passed HTET/STET, claimed exemption so as to be treated as eligible under Note-2 of the said advertisement. According to the petitioners, they had the required experience of working against the post of PGT for a period of four years upto 11.04.2012 and therefore, treating them ineligible by the respondents is totally arbitrary and illegal.

The alternative argument, which has been raised by learned Senior Counsel appearing on behalf of the petitioners is that as per Note-2 appended with the advertisement concerned, only four years teaching experience has been required without there being any mention that same has to be against PGT post and hence, as the petitioners have experience as teachers, which is more than four years as on 11.04.2012, they should be treated eligible in all respects.

After noticing the said contention, this Court issued notice of motion and directed the respondents to reserve the posts for the petitioners in the respective subjects in which they were competing.

After notice of motion, the respondents have filed reply, wherein the respondents have stated that the question of law which has been raised in the present petition, already stands decided by the Hon'ble Division Bench of this Court as well as the Coordinate Bench, wherein the Note-2 has been interpreted. As per the respondents, the Hon'ble Division Bench of this Court while passing order in **CWP No.18569 of 2012**, decided on 11.12.2012 titled as **Anamika Gupta versus State of Haryana and others**,

interpreting the Note-2 of the advertisement have mentioned that four years

experience required should be as PGT only and not on any other post. Learned State counsel submits that same is the view of the Coordinate Bench while passing the order in CWP No.19687 of 2012, decided on 09.10.2012 titled as Ajit Kumar versus Haryana School Teachers Selection Board and another. Hence, the claim of the petitioners that experience of four years as a teacher is good enough to claim exemption from passing the HTET/STET, may kindly be declined.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Learned Senior counsels appearing on behalf of the petitioners raised an argument that the interpretation of Note-2 of the advertisement has to mean that the teaching experience of four years is good enough to be granted the exemption from passing the HTET/STET, which question of law needs to be considered by this Court. The said question is no longer *res integra*. Same Note-2 of the advertisement which granted exemption to certain category of candidates from passing HTET/STET, came for consideration before this Court on the similar ground. Hon'ble Division Bench of this Court while passing order in Anamika Gupta's case (supra) considered as under:-

“The petitioner does not have the experience of 4 years as PGT instead she possesses the experience as TGT. She, thus, submits that her experience as TGT be included to fulfill the aforesaid eligibility condition of 4 years as well.

We are afraid that such a contention of the petitioner cannot be accepted. There is a definite purpose for prescribing 4 years' experience of teaching the students in PGT which, for the posts now advertised, is the only material consideration.

We, therefore, do not find any merit in this writ petition which is accordingly dismissed."

Not only this, again while interpreting Note-2 in respect of the same advertisement, the Coordinate Bench of this Court while passing order in **Ajit Kumar's case (supra)** held as under:-

"Perusal of the experience certificates attached with the writ petition as Annexure-P-2 (Colly) would show that the petitioner had worked as a Math Master in Vivekanand Senior Secondary School, Dahina (Rewari) with effect from 17.1.1998 to 22.8.2000, which makes an experience of 2 years 7 months and 6 days. Thereafter, the petitioner has been working as a Guest Teacher from 16.5.2007 to 25.7.2012, the date when the experience certificate was issued, according to which he had completed 4 years and 5 months. This experience certificate shows that the petitioner is working as a Math Master in Government Girls Middle School, Salamba, Block Nuh, District Mewat. Petitioner obviously is teaching students upto 8 th class as it is a middle school. As per the advertisement, the experience of four years is required to be on the same post for which the exemption is being sought, which the petitioner does not possess although, he possesses the educational qualification for appointment to the post of Post Graduate Teacher Mathematics, but since he has not passed the HTET/STET examination, he has to take the benefit of

Note 2 which grants one time exemption to the candidates who are working and have experience of minimum four years till 11.4.2012 on the said post. This Court had earlier also in a similar case, i.e. CWP No. 14666 of 2012 titled as Kamlesh Versus State of Haryana and another, decided on 2.8.2012, considered Note 2 and has held as follows :-

“Counsel for the petitioner submits that as per the requirement of the advertisement, petitioner fulfills the requirement as note 2 thereof only states that for exemption of passing HTET/STET, experience required is as a teacher in the school and it is not mentioned that it should be against Post Graduate Teacher's post. Petitioner has an experience of primary teacher from 1.9.1997 to 30.6.2011 and from 1.7.2011 till date as a Trained Graduate Teacher (Social Studies). The action of the respondents in not interviewing the petitioner and rejecting her candidature is not sustainable and therefore, press for direction to the respondents to consider the petitioner as an eligible candidate and interview her for the post of Post Graduate Teacher (Sociology).

A perusal of the eligibility conditions Clause (b) thereof, the certificate of having qualified HTET/STET was to be of the respective subject for the post applied. The exemption as per Note 2 for possessing the certificate of having qualified HTET/STET was also to be granted to the candidates who have worked for minimum of four years till 11.4.2012, which obviously means on the post for which they have applied for. Experience on a post on the basis of which exemption is being sought in the basic eligibility condition cannot be of some other post although may be as a teacher. It has thus got to be

on the post of a Post Graduate Teacher and that too in the respective subject for the post applied. Note 2 cannot be read in isolation and has to be read in conjunction with Clause (b) of eligibility condition common to all posts. The contention thus raised by the counsel for the petitioner cannot be accepted.

Petitioner was required to possess the experience of a Post Graduate Teacher in the subject for which the application stands submitted and should be in service and working on the post applied for not only on 11.4.2012 but also on the date when application is submitted.”

In the light of the above, the claim as made by the petitioner in the present writ petition cannot be accepted.

The writ, therefore, stands dismissed.”

A bare perusal of the above would show that as per the interpretation given to the same Note-2 by this Court, which is being relied upon by the petitioners, only the experience of four years against the PGT post will entitle a candidate for exemption under Note-2 of the advertisement and not otherwise. Therefore, the contention of the petitioners that mere teaching experience for a period of four years irrespective of the post against which the said candidate was working, can not be accepted and is accordingly rejected.

The second argument, which has been raised by learned Senior counsels for the petitioners is that even if the Note-2 of the advertisement is to be interpreted that experience has to be against PGT Post, then also the petitioners are to be treated eligible for the reason that a teacher who is teaching Class 9th and 10th, is to be treated as a Post Graduate Teacher.

Learned counsel submits that under the RTI, the Guest Teachers who were

teaching 9th and 10th classes, were granted experience certificate by treating them having PGT experience and therefore, the petitioners, who have also taught 9th and 10th classes, are to be treated as Post Graduate Teachers for all intents and purposes.

Learned State counsel submits that though, the said argument has been raised before this Court orally but the said question has not been raised in the present petition, so that reply could have been filed qua the said argument but submits that in case, the petitioners are of the view that their case is covered under Note-2 to the effect that they are having the experience of working for a period of four years against a PGT post, they should file representation attaching the proof thereof.

The representation, if any filed by the petitioners, will be considered by the competent authority with an open mind and appropriate order will be passed within a period of three months from the receipt of any such representation.

Learned counsels appearing on behalf of the petitioner(s) are satisfied with the said offer and readily accept the same and submit that the present petitions may kindly be disposed of as having been not pressed any further, with liberty to the petitioners to approach the respondents by way of filing appropriate representation claiming the benefit that in fact, they have worked against a PGT post for a period of four years and their case is covered under Note-2.

Learned Senior Counsels submits that while issuing notice of motion, the posts in respect of which petitioners were competing, were reserved by this Court. As the claim of the petitioners with regard to their

eligibility will be decided by the respondents by passing appropriate order on the representation to be filed by the petitioners, the interim order passed by this Court of keeping the posts vacant, be continued till the decision of their representation.

Learned State counsel submits that in case, the petitioners file their representation within a period of next three weeks, the same will be decided within a period of three months and till the decision of their representation, no action will be taken for filling up the posts which were kept vacant under the orders of this Court in these petitions, but after the decision of their representation, the respondents be given the liberty to fill up those posts in accordance with law.

Ordered accordingly.

Civil miscellaneous applications bearing No. CM-6433-CWP-2013, CM-10712-CWP-2014, CM-13401-CWP-2019 and CM-15048-CWP-2012 are also disposed of, in view of the aforesaid judgment.

(HARSIMRAN SINGH SETHI)
JUDGE

27.07.2022
Maninder

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