

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(224)

CWP No. 15902 of 2018

Date of Decision : 13.12.2022

Usha

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.N. Lohan, Advocate for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

In the present petition, the prayer of the petitioner is that she was competing for the post of PGT Hindi in pursuance to the Advertisement No. 1 of 2012 and being fully eligible, was entitled to be selected and thereafter appointed.

Learned counsel for the petitioner submits that after competing in pursuance to the Advertisement No. 1 of 2012 dated 07.06.2012 (Annexure P-1), the petitioner was duly selected against the post of PGT Hindi and her name was recommended to the department for appointment along with other candidates. Despite the fact that the name of the petitioner was recommended, no appointment order was given to the petitioner, whereas the candidates lower in merit than the petitioner were issued appointment orders.

As per the averments made in the petition, the petitioner was issued a show cause notice on 21.06.2014 (Annexure P-2) to submit that the selection of the petitioner was not correct keeping in view the fact that she had not passed the HTET examination prior to the last date of the submission of the application form and as per the exemption granted to the candidates for passing HTET examination, they must have 4 years experience on the post of PGT and the petitioner did not had the experience as required for the claim of exemption from passing of the HTET examination. Petitioner submitted a reply stating that she had duly worked in Parveen High School, Tara Nagar, Sonapat, which was duly verified by the District Education Officer hence, the said experience of four years in Government Aided Institution, is perfectly valid to grant the petitioner benefit under the Note-2 of the Advertisement in question. As the petitioner was not appointed, she has filed the present petition with a prayer that an appropriate direction be issued to the respondents to appoint her in pursuance to the recommendation made by the selecting agency.

After notice of motion, the respondents have filed the reply and in the reply, the respondents have stated that as per the qualification mentioned in Haryana State Education School Cadre (Group-B) Service Rules, 2012, a candidate was required to clear HTET or STET examination being an essential qualification and as per the advertisement also, the said condition was required to be fulfilled by the candidate concerned but as a one time measure, an exemption was granted for this essential qualification but the same was only available to the teachers, who had four years experience of teaching the PGT Classes. As per the respondents, the same question of law came up for consideration before this Court in CWP No.

14666 of 2012 titled as ***Kamlesh Vs. State of Haryana and others***, wherein, this Court has held that four years teaching experience must be on the post of PGT and a simple experience of four years in an aided institution is not good enough.

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

It is a conceded position before this Court that as per 2012 rules governing the service, a candidate is required to have pass the HTET or the STET examination in order to become eligible for appointment to the post of PGT. It is conceded that upto the last date of filling of the application form, the petitioner did not had the said qualification. The petitioner was claiming eligibility for teaching under Note-2 of the Advertisement, according to which, a one time exemption was granted from passing of the HTET/STET to the candidates, who had worked in a privately managed Government Aided/Recognized School or Government School for a period of four years till 11.04.2012.

Learned counsel for the petitioner submits that only requirement is four years experience in a privately managed Government School, which the petitioner fulfills as the petitioner had worked in Parveen High School, Tara Nagar, Sonapat. Hence, the petitioner be treated eligible even though, the petitioner was not teaching the Classes, which the PGT is supposed to teach.

The interpretation of Note-2 of the advertisement has already been done by a Co-ordinate Bench of this Court while passing order in ***Kamlesh's case (supra)***, wherein, it has been held that Note-2 envisages four years experience on the post of PGT and not a simple four years

experience in a privately managed institution. Relevant portion of the judgment in ***Kamlesh's case (supra)*** is as under :-

“I have considered the arguments submitted by the counsel for the petitioner and with his assistance have gone through the records of the case.

As per the advertisement dated 07.06.2012, the relevant eligibility conditions for all Post Graduate Teachers are as follows :-

“Common to all posts

- (a) Matric with Hindi/Sanskrit or
10+2/B.A./M.A. with Hindi as one of the subject.*
- (b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teacher Eligibility Test (STET) of respective subject for the post applied, conducted by Board of School Education Haryana, Bhiwani/one time exemption of HTET*

(See Note 2)

(c) xxxxxxxx xxxxxxxx

(d) xxxxxxxx xxxxxxxx

Age:- xxxxxxxx xxxxxxxx”

Note 2 reads as follows :-

“Note 2. *A one time exemption of HTET/STET has been granted to the candidates who have worked for minimum 4 years till 11.04.2012 in privately managed Govt. Aided Schools, Recognized Schools and Govt. School. Candidate must be in service on 11.04.2012 in addition to being position on the date of applying for the said post. They will have to qualify HTET not later than 1st April 2015 otherwise their services will be terminated automatically. Qualification/eligibility conditions and certificates will be determined with regard to last date fixed for submission of online applications also called as closing date given in the advertisement.”*

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 11.04.2012, 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 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.”

Once, a Co-ordinate Bench has already interpreted Note-2 to mean that the four years experience is required to be that of a post of PGT teacher, mere four years experience in an Aided Institution will not be good enough to grant the benefit of exemption to the petitioner as being claimed in the present petition. Learned counsel for the petitioner concedes the factum with regard to the finding recorded by the Co-ordinate Bench in ***Kamlesh's case (supra)***, to be against the petitioner as of now. That being so, no relief can be granted to the petitioner.

Dismissed.

December 13, 2022
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No