

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(222)

CWP No. 14804 of 2017 (O&M)
Date of Decision : 12.12.2022

Santosh Kumari

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Arun Rana, Advocate for
Mr. Suresh Kumar Kaushik, Advocate for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM-10349-CWP-2017

Present application has been filed for placing on record the documents as Annexures P-8 to P-11.

Application is allowed and documents as Annexures P-8 to P-11 are taken on record.

CM-4659-CWP-2019

Present application has been filed for placing on record the documents as Annexures P-12 (Colly) to P-15 (Colly).

Application is allowed and documents as Annexures P-12 (Colly) to P-15 (Colly) are taken on record.

CM-8182-CWP-2019

Present application has been filed for placing on record the documents as Annexures P-12 and P-13.

Application is allowed and documents as Annexures P-12 and P-13 are taken on record.

CWP No. 14804 of 2017

In the present petition, the prayer of the petitioner is for the grant of relaxation with regard to the essential qualification envisaged in the Advertisement No. 3/2015 issued for the recruitment of Trained Graduate Teachers (TGT).

As per the averments made in the writ petition, 1919 posts of TGT were advertised in different subjects. 662 posts of TGT in Physical Education were also part of the advertisement for which, the essential qualification was Graduation with a Bachelor degree in Physical Education or diploma in Physical Education or equivalent qualification from recognized university. One of the conditions of eligibility was that the candidate should have qualified Haryana Teacher Eligibility Test (HTET) or School Teacher Eligibility Test (STET) conducted by the Board of School Education Haryana, Bhiwani.

Petitioner competed for the said post but, later on was disqualified on the ground that she is not eligible as she did not had qualified the HTET or the STET upto the last date of the application form. The prayer of the petitioner is that though, she does not have the said qualification which is a part of the essential qualification required for competing for the post in question but as, on an earlier occasion also, an exemption was given for passing of the HTET examination, the same relaxation be extended in favour of the petitioner as well.

Upon notice of motion, the respondents appeared and have filed their reply. In the reply, the respondents have stated that though, as a one

time measure, after the framing of 2012 rules, when an advertisement was issued in the year 2012 and the qualification of passing of the HTET examination was first time brought into operation in the year 2012, one time relaxation was given to the candidate from passing of the said HTET examination whereas, the present advertisement was issued in the year 2015 and keeping in view the essential qualification envisaged under 2012 rules, the petitioner could have attained the said qualification of passing HTET examination within a period of three years after the same was prescribed, hence the claim for the grant of relaxation by the petitioner is not maintainable.

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

It is a settled principle of law that the grant of relaxation is within the domain of an employer and the Court has no jurisdiction to interfere unless and until the non-grant of relaxation amounts to discrimination. The discrimination can only be claimed with a similarly situated employee.

In the present case, the petitioner is claiming relaxation of the essential qualification as envisaged under 2012 rules, which govern the service. The relaxation is also being claimed qua one of the requisite qualification needed for appointment under the service rules. Once, the domain of the grant of relaxation is with the employer and nothing has been brought to the notice of this Court that any similarly situated employee, who is competing along with the petitioner, has been granted the said relaxation, no benefit of relaxation can be ordered by this Court to be extended in favour of the petitioner.

Learned counsel for the petitioner submits that in the year 2012, the relaxation was given to the candidates regarding the same qualification hence, there is no impediment in the grant of the same benefit to the petitioner as well. Though, it is a conceded fact that in the year 2012, the relaxation was given qua the passing of qualification of HTET but as per the respondents, the same was only one time concession, which was extended to candidates keeping in view the fact that the said qualification was prescribed under 2012 rules for the first time and most of the candidates were not possessing the said qualification, whereas in the case of the petitioner, the qualification of passing of HTET was prescribed in the year 2012 and the petitioner was competing in pursuance to advertisement issued in the year 2015 and the petitioner had sufficient time to qualify the said examination. Hence, petitioner cannot claim that she is similarly situated as that of the candidates, who were competing in pursuance to the advertisement made in the year 2012. As the action of the respondents is not discriminatory and non-grant of exemption to the petitioner is based upon sound principle, no interference is called for by this Court. Furthermore, the similar question came up for consideration before this Court in CWP No. 38102 of 2018 and the similar prayer as being made in the present petition, was rejected. That being so, no ground is made out for interference by this Court.

Dismissed.

December 12, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes