

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

CWP-5864-2023
Date of Decision: 21.03.2023

Annu

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. R.A. Sheoran, Advocate, for the petitioner.

Mr. R.S. Budhwar, Additional AG, Haryana, with
Mr. Rajesh Gaur, Addl. AG, Haryana.

HARNARESH SINGH GILL, J.

The petitioner seeks issuance of a writ in the nature of Certiorari quashing the impugned order dated 19.09.2022 (Annexure P.3), whereby the respondents withdrew the order dated 06.09.2021 (Annexure P.1) in an arbitrary and illegal manner. A further prayer is made for issuance of a writ in the nature of Mandamus directing the respondents to consider Central Teacher Eligibility Test (CTET) equivalent to the State Teacher Eligibility Test (STET)/Haryana Teacher Eligibility Test (HTET) for all intends and purposes, for the post of Trained Graduate Teacher (TGT) and allow the petitioner to participate in the selection process, provisionally.

Learned counsel for the petitioner would argue that earlier as per the order dated 06.09.2021 (P.1) issued by the

respondent-State, CTET was considered equivalent to the HTET for the post(s) of TGT in the State of Haryana, but all of a sudden, the said order stood withdrawn by the respondents on 19.09.2022, without assigning any reason therein. It is, thus, submitted that the petitioner, who possesses the qualification of CTET, is no longer eligible to apply for the post(s) of TGT, now advertised by the respondents, as she is not having the essential qualification of HTET, as stipulated vide Advertisement No.2 of 2022.

It is yet further submitted that the education being the matter of concurrent list, the qualification of NTET, prescribed by the National Council for Teachers, would prevail over the HTET and in the past as well, the respondents have carried out various recruitment drives of the similar posts and even effected promotions in the Department, by considering the CTET qualification as equivalent to HTET.

It is further submitted that the petitioner had filled in her form online and it was accepted, but in view of the order dated 19.09.2022, she would be considered ineligible. The learned counsel for the petitioner would further submit that in number of cases, this Court has granted permission to the candidates having CTET qualification to apply for the post in question provisionally and that similar relief may also be granted to the petitioner.

The learned counsel for the petitioner would further submit that earlier the cut-off date was 15.03.2023 and the same was extended upto 20.03.2023; that the petitioner had

filed the petition on 17.03.2023, but it was returned by the Registry with some objections and that after removal of the objections, the petition was re-filed on 20.03.2023 and on the request of fix today, the same was ordered to be listed tomorrow i.e. today 21.03.2023.

On the other hand, the learned State counsel, who is present in this Court, pursuant to the service of advance copy of the petition, submits that it is the prerogative of the State Government to prescribe a particular qualification, as essential qualification for the given post(s); that the State is not required to give any reasons for withdrawing the earlier essential qualification i.e. CTET being equivalent to HTET and that no indefeasible right has accrued to the petitioner to seek any equitable relief on the basis of the earlier notification/order passed by the State, which stands withdrawn. He strongly contests the submission of the counsel for the petitioner regarding acceptance of his application and states that no such application was ever accepted by the respondent-Department.

Still further, the learned State counsel would submit that once the cut-off date has come to an end, the same cannot be extended by granting an indulgence to the petitioner, as it would create an unending process. He relies upon the judgment of the Hon'ble Apex Court in Shikhar & Another Vs. National Board of Examination & Others, 2022(3) SCT 543.

I have heard the learned counsel for the parties.

Leaving aside the issue of the CTET being equivalent to HTET, the only question that requires determination at this

stage is whether the cut-off date which came to an end on the previous day (20.03.2023), can be extended, to mandate the respondents to accept the application form of the petitioner and allow her to participate in the recruitment process.

In this regard, it may be noticed that earlier the cut-off date for submission of the application forms for the posts of TGT was 15.03.2023. Thereafter, the respondents had extended the same upto 20.03.2023. When the present petition has come up for hearing today, the cut-off date has already come to an end. No arbitrariness on the part of the State could be shown by the petitioner and rather by extending the same upto 20.03.2023, an opportunity was granted by the State to the students, who could not apply, for any reason. Had the petitioner approached this Court before the cut-off date, this Court ought to have granted the relief to her, as has been granted to the similarly situated students.

The Hon'ble Apex Court in Shikhar's case (supra), while considering the issue of extension of cut-off date, has held that extension of cut-off date would result in disruption of educational schedule and it would lead to an inevitable postponement of the schedule. It has further been held that the cut-off date cannot be held to be arbitrary unless it is shown that it is unreasonable, capricious or whimsical even if no reasons are forthcoming as to the choice of date. It has been held as under:-

“12. Whenever a cut-off is extended, some students are likely to fall on the other side of the dividing line. In

State of Bihar v. Ramjee Prasad, (1990)3 SCC 368, the State had prescribed that applicants applying for the post of Assistant Professors must have three years of experience. In the preceding year, the cut-off date for the receipt of applications was set in June, however, in the year in question, the date was fixed in January making certain candidates ineligible owing to their failure to meet the three-year requirement. This Court held that the cut-off date cannot be held to be arbitrary unless it is shown that it is unreasonable, capricious or whimsical even if no reasons are forthcoming as to the choice of date. This Court observed thus:-

“8. In the present case as pointed out earlier the past practice was to fix the last date for receipt of applications a month or one and a half months after the date of actual publication of the advertisement. Following the past practice the State Government fixed the last date for receipt of applications as January 31, 1988. Those who had completed the required experience of three years by that date were, therefore, eligible to apply for the posts in question. The respondents and some of the intervenors who were not completing the required experience by that date, therefore, challenged the fixation of the last date as arbitrary and violative of Article 14 of the Constitution. It is obvious that in fixing the last date as January 31, 1988 the State Government had only followed the past practice and if the High Court's attention had been invited to this fact it would perhaps have refused to interfere since its interference is based on the erroneous belief that the past practice was to fix June 30 of the relevant year as the last date for receipt of applications. Except for leaning on a past practice the High Court has not assigned any reasons for its choice of the date. As pointed out by this Court the choice of date cannot be dubbed as arbitrary even if no particular reason is forthcoming for the same unless it is shown to be capricious or whimsical or wide off the reasonable mark. The choice of the date for advertising the

posts had to depend on several factors, e.g. the number of vacancies in different disciplines, the need to fill up the posts, the availability of candidates, etc. It is not the case of anyone that experienced candidates were not available in sufficient numbers on the cut-off date. Merely because the respondents and some others would qualify for appointment if the last date for receipt of applications is shifted from January 31, 1988 to June 30, 1988 is no reason for dubbing the earlier date as arbitrary or irrational. We are, therefore, of the opinion that the High Court was clearly in error in striking down the government's action of fixing the last date for receipt of applications as January 31, 1988 as arbitrary.” (emphasis supplied)

13. Recently in Hirandra Kumar v. High Court of Judicature at Allahabad & Anr., (2020)17 SCC 401, a two-judge Bench of this Court, of which one of us (DY Chandrachud, J) was a part held that the cut-off date or an age limit does not become arbitrary and violative of Article 14 of the Constitution merely because certain candidates fall on the wrong side of it. A cut-off date or an age bar would always exclude some candidates. This Court emphasised that the determination of the cut-off date is within the sphere of the executive and the court cannot assume that function. This Court observed:

“21. The legal principles which govern the determination of a cut-off date are well settled. The power to fix a cut-off date or age-limit is incidental to the regulatory control which an authority exercises over the selection process. A certain degree of arbitrariness may appear on the face of any cut-off or age-limit which is prescribed, since a candidate on the wrong side of the line may stand excluded as a consequence. That, however, is no reason to hold that the cut-off which is prescribed, is arbitrary. In order to declare that a cut-off is arbitrary and ultra vires, it must be of such a nature as to lead to the

conclusion that it has been fixed without any rational basis whatsoever or is manifestly unreasonable so as to lead to a conclusion of a violation of Article 14 of the Constitution. 27....the validity of the Rule cannot be made to depend on cases of individual hardship which inevitably arise in applying a principle of general application. Essentially, the determination of cut-off dates lies in the realm of policy. A court in the exercise of the power of judicial review does not take over the function for itself. Plainly, it is for the rule-making authority to discharge that function while making the Rules.”

14. In the present case, cogent reasons have been provided as to why the deadline for completing the internship cannot be extended. An extension of the cut-off any further would result in the disruption of the educational schedule, as indicated to the Court by the Additional Solicitor General. Moreover, students who have qualified in terms of the cut-off of 31 July 2022 will be prejudiced by the inevitable postponement of the schedule. Hence, it would not be appropriate for this Court to issue any such direction. The alternative prayer for the inclusion of the period of Covid duties in the internship requirements would also involve this Court in micro-managing the curriculum for the completion of medical courses. This is a function which, in our view, should not be assumed by the Court. Hence, though hardship has been caused to those students whose internship commenced much later, it would not be possible, at this stage, to disturb the schedule as it would affect the other students who fulfill the cut-off date of 31 July 2022.

Extension of cut-off date under the orders/directions of the Court, would warrant only when there is any arbitrariness or technical defect in the process of submission of the application forms or the approach of the respondents is capricious or whimsical. Otherwise, it would disrupt the entire

process and make it a never ending process. Merely, because similarly situated persons, have been granted permission to apply for the posts of TGT, provisionally is no ground to entertain the present petition, when admittedly, the same has come up for hearing for the first time after the cut-off date.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

21.03.2023
ds

(HARNARESH SINGH GILL)
JUDGE

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