

CWP-16594-2016

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

CWP-16594-2016

Date of decision: 08.02.2023

Satbir Singh and others

...Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- None for the petitioners.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The present petition has been filed for issuance of directions to the respondents to prepare the seniority list of the petitioners and other concerned employees in accordance with Rule 11 of the Haryana School Education (Group-C) State Cadre Service Rules, 2012.

As per the averments made in the petition, petitioner Nos.1 and 3 were appointed on the posts of Maths Master whereas petitioner No.2 on the post of Social Studies Master; that the petitioners joined the Education Department on the posts of Masters in accordance with the Haryana State Education Cadre Group-C (Service) Rules, 1998; that thereafter, the Government notified the rules called as 'The Haryana School Education (Group-C) State Cadre, Service Rules, 2012 (hereinafter referred to as 'Service Rules, 2012); that as per the Service Rules, 2012, the masters had been renamed as Trained Graduate Teachers (TGTs) and that the Classical and Vernacular (C & V) teachers are feeder cadre of the TGTs.

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It is further stated in the petition that as per the Service Rules, 2012, the promotion avenue for a TGT is on the post of the Elementary School Head Master (ESHM) and 85% posts of ESHM are to be filled amongst the TGTs and the remaining 15% from the Classical and Vernacular Teachers. Lastly, it is prayed that the respondents be directed to prepare the seniority list of master/TGT cadre, Sanskrit Teachers, Hindi Teachers, Punjabi Teachers, Physical Training Instructors(PTI)s, Art and Craft Teachers (Drawing Teachers), Tailoring Teachers and Tabla Players, in accordance with the judgment dated 20.05.2014 passed by a Coordinate Bench in CWP-10325-2013, titled as 'Sandeep Singh and others Vs. State of Haryana and another'.

On the other hand, learned State counsel submits that the judgment passed by a Division Bench in 'State of Haryana Vs. Sandeep Singh and others', LPA No.1992 of 2014, decided on 03.12.2014, affirming the judgment dated 20.05.2014 passed in CWP-10325-2013, has already been set aside by the Hon'ble Supreme Court in 'State of Haryana and another Vs. Sandeep Singh and others', 2019(6) SCC 453.

I have heard the learned State counsel.

A perusal of the record would show that some employees had filed CWP-10325-2013. The Coordinate Bench had interpreted the provisions of Service Rules, 2012 to hold that once Classical and Vernacular (C & V) Teachers have been designated as TGT, then the Classical and Vernacular (C & V) Teachers are Masters for all intents and purposes and hence, entitled to be considered for the promotion as ESHMs. The judgment passed by the learned Single Judge was upheld by the

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Division Bench. However, the State of Haryana filed an appeal before the Hon'ble Supreme Court which as noticed above, was accepted resulting in reversal of the judgments passed by the learned Single Judge as well as the Division Bench.

Truly speaking, the averments urged before this Court are no longer *res integra*, having been decided by the judgment of the Hon'ble Supreme Court in State of Haryana and another (supra).

The Hon'ble Supreme Court while discussing the Scheme of the Services Rules, 2012, held as under:

“15. We find that the High Court has taken a simplistic view on the bare reading of Rule 9 (5) of 2012 Rules to hold that with the commencement of 2012 Rules, the C&V Teachers become part of TGT Cadre and as part of the TGT Cadre, they become entitled for promotion to the post of Elementary School Headmaster from the day their juniors were promoted to such post.

16. The appointment of the writ petitioners as C&V Teacher is prior to the commencement of 2012 Rules. The 1998 Rules contemplate direct recruitment to the post of Master and to various other disciplines, commonly called as C&V Teachers. In fact, the post of Master is a promotion post for C&V Teachers in terms of Rule 9 of the 1998 Rules. The qualification for the post of Art Master by way of direct recruitment and promotion is Graduate or Matric/10+2 with 5 years Degree/Diploma. However, for promotion the additional qualification is 3 years' experience on the post of JBT and C&V Teachers.

17. The post of TGT is contemplated to be filled up by direct recruitment and by promotion from amongst primary teachers/C&V Teachers. Column 3 of the Appendix B of 2012 Rules prescribes the academic qualifications and

experience for direct recruitment on contract basis whereas, Column 4 prescribes academic qualifications and experience for appointment other than by direct recruitment on contract basis. The qualifications for filling up the post of TGT by way of promotion are B.F.A/B.A and 2-year Diploma in Elementary Education; or B.F.A/B.A with at least 50% marks and 1-year Bachelor in Education (B.Ed.); or B.F.A/B.A with at least 45% marks and 1-year Bachelor in Education (B.Ed.); in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard; or Senior Secondary (or its equivalent) with at least 50% marks and 4 year B.A. Ed. Etc. and 3 years' experience as Primary Teacher (PRT)/ Classical & Vernacular (C&V) Teacher. Thus, the post of TGT is a promotion post for C&V Teachers as well.

18. *Therefore, the reading of the entire 2012 Rules shows that the Masters appointed under 1998 Rules alone were holding equivalent post to that of the members of the cadre of TGT. It is such category alone who are entitled to be promoted to the post of Elementary School Headmaster in terms of the qualifications prescribed in Appendix B particularly in view of Rule 2(h) and Rule 7 of the 2012 Rules. TGT means a Trained Graduate Teacher in the relevant subject appointed after notification of the 2012 Rules and include the Masters appointed before the notification of these Rules. Therefore, the Masters appointed in terms of 1998 Rules are only the Trained Graduate Teachers in terms of 2012 Rules. The post of Master under the 1998 Rules or the Post of TGT under the 2012 Rules is in fact promotion post for the C&V Teachers.*

19. *The entire argument of the appellants is based upon the expression used that C&V Teachers governed by 1998 Rules shall be "converted to TGT in relevant subject". The question is whether such C&V Teachers stand*

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upgraded to the post of TGT though, their promotion channel under 1998 Rules was to the post of Master which alone has been treated as TGT as defined in Rule 2(h) of the 2012 Rules and in view of express language of Rule 7 which mandates that the appointment shall be made to the post of TGT only in accordance with the qualifications prescribed in 2012 Rules.

20. *The reading of the Rules would show that C&V Teachers are treated to be TGT so as to avoid anomalous situation where the C&V Teachers after the commencement of 2012 Rules would not be governed by any set of Rules. Therefore, the expression that such C&V 14 Teachers stand converted to TGT is only to facilitate their service conditions to be governed by the 2012 Rules rather than to upgrade the C&V Teachers as members of TGT Cadre. The feeder and the promotional cadre cannot be treated at par by virtue of the expression used in Rule 9 (5) of 2012 Rules that the C&V Teachers shall be converted to TGT. Such conversion is only for a limited purpose of 2012 Rules being extended to them and that such C&V Teachers do not become member of the “cadre” eligible for promotion as Elementary School Headmaster. Rule 9(5) of 2012 Rules does not use the word “cadre”. Therefore, such teachers cannot be treated to be part of TGT cadre. Such interpretation is further supported by the fact that C&V Teacher is a dying cadre and no further recruitment is to be made in these categories.*

21. *Such C&V Teachers, if eligible, can seek appointment by way of a direct recruitment or other than by direct recruitment in terms of the academic qualifications and experience contained in Appendix B of 2012 Rules but they cannot be treated en masse as members of TGT Cadre. The State may consider to provide opportunity to such teachers for appointment as TGTs.”*

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This Court is of the view that the judgment passed by the Hon'ble Supreme court covers all the issues as raised in the present petition.

As per Service Rules, 2012, the Classical and Vernacular (C & V) teachers are treated to be TGT so as to avoid anomalous situation. The said conversion is only for a limited purpose of Rules, 2012. The Classical and Vernacular (C & V) teacher is a dying cadre and no further recruitment is to be made in the said categories.

The Hon'ble Supreme Court in State of Haryana and another (supra), while interpreting the Rule, has held that the posts of Classical and Vernacular (C & V) teachers do not stand upgraded to the post of Trained Graduate Teachers for the purpose of promotion. Accordingly, the combined seniority list of master/TGT cadre, Sanskrit Teachers, Hindi Teachers, Punjabi Teachers, Physical Training Instructors(PTI)s, Art and Craft Teachers (Drawing Teachers), Tailoring Teachers and Tabla Players cannot be ordered to be prepared.

Keeping in view the aforesaid fact, no ground to issue the writ as prayed for, is made out.

Dismissed.

08.02.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No