

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

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**CWP-23823-2017 (O&M)
Date of decision: 09.03.2023**

Rajan Kumar

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- None for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of mandamus directing the respondents to consider the claim of the petitioner for promotion to the post of Elementary School Headmaster (ESHM) under 85% quota, as the post of Drawing Teacher has been converted to Trained Graduate Teacher (TGT) under Rule 9(5) of the Haryana School Education (Group-C) State Cadre Service Rules, 2012 (the Rules) and the claim of the similarly situated Drawing Teachers have been considered vide order dated 03.05.2016 (Annexure P-8) and directing the respondents not to discriminate the petitioner as he belongs to Classical & Vernacular (C&V) Cadre and the juniors to him, who belong to C&V Cadre i.e. Hindi Teacher, Sanskrit Teacher and Punjabi Teacher, have been promoted but the claim of the petitioner has been rejected and further

directing the respondents to prepare a joint seniority list of different District Cadre at State level under the Rules.

The short reply dated 11.07.2019 filed on behalf of respondent Nos. 1 to 3 is already on record.

Today there is no representation on behalf of the petitioner. Even on 12.07.2019, the situation remained the same.

As per the contents of the petition, the petitioner was appointed as Drawing Teacher vide order dated 11.08.2004 on the recommendations of Haryana Staff Selection Commission; that at the time of appointment, services of the petitioner was governed by the Rules known as 'The Haryana State Education School Cadre (Group-C) Services Rules, 1988, according to which, the appointing authority to the posts of Sanskrit Teacher, Hindi Teacher, Punjabi Teacher, Physical Training Instructor (PTI), Art and Craft Teacher (Drawing Teacher), Tailoring Teacher and Table Player, was the District Education Officer of the concerned District; that the seniority was maintained at the district level of the aforesaid posts as all the posts had one Cadre i.e. C&V and the inter-se-seniority of the members was to be determined by the length of service; that the services of the petitioner is governed by the Rules, 2012; that the petitioner is working as Drawing Teacher i.e. C&V Cadre which has now been converted to TGT under Sub Rule (5) of Rule 9 and that under the Rules, the promotion avenue for a TGT is on the post of ESHM and 85% posts of ESHM are to be filled amongst the TGTs, but the claim of the petitioner for promotion on the post of ESHM was not considered by the authorities whereas such C & V Hindi Teachers has been promoted.

Learned State counsel points out that as per the short reply, the similarly situated six Drawing Teachers (Sandeep Singh and others) were promoted in compliance of order of passed by a Coordinate Bench of this Court, as the joint seniority list of TGT could not be prepared by the department in time. After finalization of the seniority list of TGT, the promotion order of Sandeep Singh and others was withdrawn vide order dated 22.02.2019 after giving them opportunity of hearing. 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. Learned State counsel, hence, submits that the petitioner's case is now squarely covered against them, by the aforesaid judgement.

I have heard the learned State counsel and have also gone through the case file.

A perusal of the record would show that some employees had filed CWP-10325-2013. The Coordinate Bench had interpreted the provisions of Rules 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 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.

The issue involved in the present case has been decided upto Hon'ble Apex Court vide judgment dated 06.05.2019 passed in SLP (C) No. 11295 of 2019 titled as 'State of Haryana and another Vs. Sandeep Singh and Others', and as per the judgment, the C&V Teachers cannot be treated to be part of TGT Cadre and the feeder and the promotional cadre cannot be treated at part by virtue of the expression used in Rule 9(5) of the Rules. Even the promotion granted to the similarly situated 06 Drawing Teachers (Sandeep Singh and others) has been withdrawn vide order dated 22.02.2019.

Truly speaking, the contentions urged before this Court are no longer *res integra*, having been decided by the judgment of the Hon'ble Supreme Court in Sandeep Singh' s case (supra).

The Hon'ble Supreme Court while discussing the Scheme of the Rules, 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 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.”

This Court is of the view that the judgment passed by the Hon'ble Supreme Court covers all the aspects of the issued involved herein.

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.

In view of the above, this Court does not find any merit in the petition.

Dismissed.

(HARNARESH SINGH GILL)
JUDGE

09.03.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No