

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

128 CWP-2361-2024 (O&M)
Date of decision: 21.02.2024

Gagandeep Singh and others
...Petitioners
Versus
State of Punjab and others
...Respondents

CORAM: HON'BLE MR.JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR.JUSTICE VIKAS SURI
Present: Mr. Nitesh Singla, Advocate for the petitioners.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioners by way of this petition assail the amendment notification dated 18.03.2021 (Annexure P-5), which prescribes additional qualification of passing the Punjab State Teacher Eligibility Test for the non-teaching staff for the purpose of promotion.
2. Learned counsel submits that the Punjab Educational (Teaching Cadre) Group 'C', (First Amendment) Rules, 2020 only prescribe requirement of passing Teacher Eligibility Test to those who are appointed in the service by direct recruitment and do not require persons who are to be promoted to pass the Teacher Eligibility Test. The amendment has been made in Rule 7 by notification dated 26.02.2020.
3. Learned counsel further submits that while only 1% of the posts are reserved for promotion from non-teaching staff, the other percentage of 20% and 40% reserved for eligible primary school

teachers and other category teachers are not required to pass the Teacher Eligibility Test and thus laying *per se* discrimination amongst the various promotees. Learned counsel submits that if the other promotees of category of primary school teachers as well as other category of teachers are allowed to be promoted without requiring them to pass the Teacher Eligibility Test, the petitioners too who are non-teaching staff, should be allowed to be promoted without the requirement of passing the Punjab State Teacher Eligibility Test and the rule, therefore, *per se* is discriminatory and deserves to be quashed. Learned counsel submits that as per the NCTE Regulations, 2010, the requirement of passing the Teacher Eligibility Test was introduced and those who had been appointed on or after 03.09.2001 and before the date of this notification have been exempted from passing the Teacher Eligibility Test and therefore, the petitioners were entitled to be considered for promotion and the rule as introduced vide notification dated 18.03.2021 would not be applicable to the petitioners and exemption should have been granted to them.

4. We have considered the submissions raised by learned counsel.

5. It could be apposite to quote the provisions contained under the NCTE notification which laid down the minimum qualification required for teaching classes I-V and VI-VIII and thereafter as the masters and mistresses (so named in State of Punjab) are teachers teaching classes upto VIII standard, the minimum qualification as laid down by the NCTE would apply on them. The said

minimum qualifications were introduced by notification dated 23.08.2010 inconformity with the provisions of clause (n) of Section 2 of the Right of Children to Free and Compulsory Education Act, 2009 (in short known as RTE Act, 2009). As per the said minimum qualification apart from educational qualification as noticed above, a person is necessarily required to pass Teacher Eligibility Test to be conducted by the appropriate Government in accordance with the guidelines framed by the NCTE for the purpose. For teachers appointed before the date of said notification while they were not required to acquire the minimum qualification as specified above namely B.Ed (Special Education) or D.Ed (Special Education), they were required to complete six months special basic training teachers course approved by the NCTE. The said NCTE regulations are binding on all educational institutions including the institutions under the Punjab Government. In the light of above, whether a person is directly recruited or whether he is promoted, he occupies a post which is governed by the NCTE regulations and would therefore necessarily be required to fulfil the said qualification to be eligible to teach in the schools.

6. A look at the rules appended and placed on record shows that the State Government has made certain amendments in conformity with the NCTE regulations which include amending the requisite qualification for promotion of the non-teaching staff vide the impugned notification dated 18.03.2021, requiring such persons holding the posts of Clerk, Junior Assistant, Steno-typist, Junior Scale Stenographer, Librarian, Assistant Librarian, Library Restorer and Senior Laboratory

Attendant for consideration of promotion in various subjects for the posts of masters and mistresses and the rule, therefore, apart from requiring them to possess the educational qualification also adds requirement to pass the relevant Punjab State Teacher Eligibility Test.

7. The contention of learned counsel for the petitioners that other promotees namely eligible primary school teachers and other category of teachers have not been required to pass the Punjab State Teacher Eligibility Test resulting indiscrimination, is found to be wholly misconceived. The word eligible primary school teachers as introduced vide amendment dated 26.02.2020 in the Punjab Educational (Teaching Cadre) Group 'C' Service Rules 2018 reflects that the primary school teachers would have to acquire the eligibility as provided under the NCTE regulations to teach primary classes. Since the minimum qualification required for teaching classes I-V also requires a teacher to have passed the Teacher Eligibility Test, the word eligible would include alone such primary school teachers who have acquired and passed the Punjab State Teacher Eligibility Test. In view thereto, it cannot be said that those primary school teachers who are to be promoted, can be exempted from passing the Punjab State Teacher Eligibility Test. The contention of learned counsel for the petitioners is thus without any basis and misconceived.

8. The second contention which the learned counsel has raised is, with regard to the exemption granted to the teachers who were teaching prior to the notification issued by the NCTE dated 23.08.2010. Of course, such exemption will have no application to the petitioners as

they are not teaching and would, therefore, not form in the same class as those who have been granted exemption by the NCTE. The parity on the said count, therefore, also is found to be without any basis.

9. No other argument has been raised. In view thereof, the claim of the petitioners fails and the writ petition is accordingly dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

21.02.2024
sumit.k

(VIKAS SURI)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No