

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

Neutral Citation No. 2024:PHHC:038839-DB

(107)

LPA-308-2023 (O&M)

Decided on : 19.03.2024

Anoopam Sharma and others

.....Appellant(s)

Versus

State of Haryana and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Dr. Pawan Kumar Aryan, Advocate for the appellants.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

G.S. Sandhawalia, Acting Chief Justice (Oral)

Consideration in the present letters patent appeal is sought of the judgment of the learned Single Judge dated 16.01.2023 passed in **CWP-9464-2017 ‘Anoopam Sharma and others Vs. State of Haryana and others’**, whereby the writ petition filed by the appellants was dismissed.

2. The case of the writ petitioners was to consider them for recruitment to the post of Primary Teacher under Differently-abled/Handicapped Category, in terms of the Advertisement dated 08.11.2012 issued by the Haryana School Teachers Selection Board. The same was rejected by the learned Single Judge by noticing that they had not applied for the said post against Advertisement No. 2/2012. The cut-off-date was 08.12.2012 and it was noticed by the learned Single Judge that HTET Certificate was only issued on 31.01.2017 and, therefore, the writ petitioners did not possess the requisite qualification. The advertisement being magna carta for the purpose of determining the

eligibility, the applicants having not possessed the qualification by the cut-off-date and the selection process in pursuance of the said advertisement having completed and candidates having been appointed with the concerned department, were the reasons which prevailed with the Learned Single Judge while dismissing the writ petition.

3. A perusal of the writ petition itself would go on to show that in paragraph No.2(d) of the writ petitioners themselves had pleaded that they were unable to apply for post, as they had not qualified the HTET Test 2011. The said selection has been subject matter of consideration before two Division Benches and eventually it has culminated in the final order passed by the Apex Court. The first litigation in **CWP No.346 of 2013 ‘Antim Kumari Vs. State of Haryana and others’** was decided on 29.04.2015 (Annexure P-4) and other connected cases, wherein the issue was that the candidates who had not taken the test before the cut-off-date whether they could be considered eligible. The second round of litigation had been initiated on account of the concession given by the learned Advocate General by treating them as eligible. Resultantly, on account of the interim orders passed in the second round, the State Government had juggled the list of candidates, whereby even candidates who had not passed the test by the cut-off-date came to the zone of consideration. Resultantly, in **LPA No.912 of 2016 ‘Paramjeet Kaur and another Vs. State of Haryana and others’**, the matter was decided on 20.07.2022 by a Bench headed by one of us G.S. Sandhawalia, J. The matter was then taken to the Apex Court in **SLP No.25269 of 2022 ‘Vikas Kumar and others Vs. State of Haryana and others’** wherein the State Government had again given a concession, as the State was willing to accommodate all

the three categories of candidates. Resultantly, certain directions had been issued and eventually, the Apex Court vide order dated 13.09.2022 had held that 2012 selection will stand closed with the arrangement which had been directed by the Apex Court. Relevant portion of the said order reads as under:-

“(i) The total number of advertised posts i.e. 9870 to be filled up first from the selected candidates declared in the result dated 14.08.2014.

(ii) In the event, the selected candidates from the above category do not join, then the remaining vacancies shall be filled up from the list of waitlisted candidates declared along with successful candidates on 14.08.2014.

(iii) After filling up of the 9870 vacancies as provided above, the 2233 candidates who qualified the HTET after the cutoff date, sometimes in June, 2013 will be appointed as per their inter se merit enbloc below the above 9870 candidates.

(iv) In case, there still remain any waitlisted candidates from the waitlisted list of 14.08.2014, who could not be accommodated in the advertised posts of 9870, will be appointed enbloc as per their merit below the 2233 candidates.

(v) The seniority will be as per their merit position in their respective lists.

(vi) No dispute for seniority would be entertained of any candidate inter se different lists.

(vii) No claim for seniority or for any arrears would be entertained for any period not worked by the candidates of any of the above lists.

(viii) Salary would be paid for the period, for which such candidates have actually worked but not paid salary after due verification of their working both from the records and physically.

(ix) The 2012 selections will stand closed with the above arrangement.

(x) Exercising our powers under Article 142 of the Constitution, we increase the number of advertised posts beyond 9870 to accommodate the candidates as directed above and no more.

(xi) All the appeals are disposed of as directed above.

(xii) The impugned judgment shall stand modified to the aforesaid extent.”

4. A perusal of the abovesaid directions would go on to show that the only concession which was granted by the Apex Court was regarding the candidates who had qualified the HTET after the cut-off-date sometimes in June, 2013. It is the appellants own case that they had only qualified the HTET Test on 31.01.2017, which was much later. The writ petitioners had filed the writ petition in the year 2017, which has been disposed of by the Learned Single Judge on the ground that they had not applied for the post in question and they were not eligible, which is the conceded position in the pleadings also. Rather the Coordinate Bench on 06.11.2023 had asked the appellants to file an affidavit to clarify which of the four writ petitioners had taken part in the selection process of the advertisement of the year 2012. In pursuance of the said order, CM-1764-LPA-2024 has been filed for placing on record affidavit alongwith annexures. In the affidavit, it has been stated that writ petitioner Nos.1 and 4 had applied for the respective posts and were not allowed to participate in the selection process and had been marked absent. It is their own case that the result and certificate of eligibility were not issued in the year 2011 and they were only released on 31.07.2017 after 6 years (Annexure P-5 colly.). The details of petitioner Nos.1 & 4 and roll numbers have been mentioned. In such circumstances, the question of granting any relief to the persons who are not eligible has been rightly declined by the learned Single Judge.

5. In such circumstances, no relief can be granted, in view of the fact that the matter has now been finalized by the Apex Court, in the terms recorded above. Resultantly, there is no merit in the present letters patent appeal and the same is hereby dismissed in limine. All pending civil miscellaneous application(s) also stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

19.03.2024
Naveen

(LAPITA BANERJI)
JUDGE

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