

CWP-11452-2004 (O&M) and
CWP-19940-2004 (O&M) - 1-

2024:PHHC:119739



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

554/2

CWP-11452-2004 (O&M)
Date of decision:10.09.2024

Smt. Rajni Sharma ... Petitioner
Versus

State of Haryana and Others ... Respondents

CWP-19940-2004 (O&M)
Smt. Vandana Aggarwal ... Petitioner

Versus
State of Haryana and Others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- None for the petitioners.

Mr. Tapan Kumar, DAG, Haryana

AMAN CHAUDHARY, J. (ORAL)

1. These cases involve similar issues and therefore, are being disposed of together by way of a common judgment.
2. The petitioners possessed the qualifications of B.A.B.Ed. with Hindi and Sanskrit, respectively, as teaching subjects from Kurukshetra University prior to their appointment as JBT Teachers in the month of November, 1995. In addition, the petitioner in CWP-11452-2004 passed the B.A. (Elective) Hindi on 29.05.2002, during service and therefore is fully qualified and eligible for promotion as Hindi teacher on such date.
3. Initially the basic qualification of JBT was matriculation with diploma

in JBT, however subsequently in order to meet the demand and in view of the fact



that study was being hampered, especially in rural areas for want of teachers in primary school, the qualifications were amended and increased to BA/BEd, whereafter Haryana State Education School Cadre (Group-C) Service Rules, 1998, were framed, as per Appendix B, under Rule 7, the qualifications and experience required for appointment other than by direct recruitment, including promotion as Hindi and Sanskrit teachers, which reads thus:

“11. Sanskrit Teacher

- (i) Shastri/B.A. (Hon's in Sanskrit) from recognised University ;
 - (ii) L.T.C./OT in Sanskrit conducted by the Haryana Education Department or an equivalent qualification recognised by the Haryana Education Department
- OR
- BT/B.Ed. with Sanskrit as teaching subject from recognised University. OR
- B.A. with Sanskrit as an elective subject with B.T./B.Ed. or B.A. (Hon's in Sanskrit) with B.T./B.Ed from a recognised university.
- (iii) Knowledge of Hindi up to Matric standard.
 - (iv) 3 years experience on the post of JBT.

12. Hindi Teacher

- (i) Matric from Haryana School Education Board or an Equavalent qualification recognised by the Haryana School Education Board;
 - (ii) Prabhakar/B.A. (Hons. in Hindi) from a recognised University ;
 - (iii) L.T.C./O.T. in Hindi conducted by the Haryana Education Department or an equivalent qualification recognised by the Haryana Education Department OR
- B.A. Hons. in Hindi with B.T./B.Ed. with Hindi as teaching subject from a recognised University.
- OR
- B.A. with Hindi as an elective subject with B.T./B.Ed. with Hindi as teaching subject from a recognised university.
- (iv) Knowledge of Hindi up to Matric standard.
 - (v) 3 years of experience on the post of JBT teacher.”

(emphasis supplied)

4. The premise of denying promotion to the petitioners as per the order dated 26.04.2004 was solely on the basis of a letter dated 05.05.1995, impugned in

the present case, wherein though the above referred qualifications were mentioned,



however, with a caveat that only those JBT teachers, who attained the same during their service, would be promoted, which could not have been pressed into service, in the wake of framing of the 1998 Rules.

5. The submission of learned State counsel that the JBT teachers appointed with lower qualifications were being encouraged to acquire the higher and as such, reservation was provided to them for promotion, cannot be countenanced as it could not be at the cost of those who, as per Rules, had the required qualifications prior to their appointment and their right of consideration being taken away is in teeth of the dictum laid down in **Ajit Singh vs. State of Punjab**¹, reiterated in **Ajay Kumar Shukla and Ors. vs. Arvind Rai and Ors**², wherein Hon’ble the Supreme Court held it to be akin to a fundamental right guaranteed under Article 16(1) of the Constitution.

6. As a fall out of the above, the impugned order dated 26.04.2004, to the extent it denies the claim of the petitioners, is set aside. The respondents are directed to consider them for promotion from the date, similarly situated or those junior to them, were promoted, within a period of two months.

7. Disposed of accordingly.

8. A copy of this order be placed on the other connected case file.

(AMAN CHAUDHARY)
JUDGE

10.09.2024
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Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No

¹ (1999) 7 SCC 209.

² 2021 SCC OnLine SC 1195.