



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

- (1)

LPA-670-2024 (O&M)
- Dhirender Singh and others

.....Appellants
- Versus
- State of Punjab and others

.....Respondents
- (2)

LPA-726-2024 (O&M)
- Amarpreet Singh and others

.....Appellants
- Versus
- Veena Rani and others

.....Respondents
- (3)

LPA-992-2024 (O&M)
- State of Punjab and others

.....Appellants
- Versus
- Amandeep Sagar and others

.....Respondents

Date of decision : 14.05.2024

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

Present: Mr. D.S. Patwalia, Senior Advocate, with
Mr. H.S. Saini, Advocate, and
Ms. Alisha Sharda, Advocate,
for the appellants in LPA-670-2024.

Mr. H.S. Saini, Advocate,
for the appellants in LPA-726-2024.

Mr. Saurav Khurana, Addl. Advocate General, Punjab, and
Mr. Salil Sabhlok, Senior Deputy Advocate General, Punjab.

Mr. Gaurav Chopra, Senior Advocate, with
Mr. Ranjit Singh Kalra, Advocate, and
Ms. Sanjana, Advocate,
for the caveator/respondent No.4 in LPA-670-2024.

Mr. Ranjit Singh Kalra, Advocate, and
Ms. Mona Yadav, Advocate,
for the caveator/respondent No.1 in LPA-726-2024, and
for the caveator/respondent No.1 in LPA-992-2024.

**G.S. SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)**CM-1788-LPA-2024 in LPA-726-2024CM-2403-LPA-2024 in LPA-992-2024

For the reasons stated in the applications, which are duly supported by affidavits, delay of 09 days in filing LPA-726-2024 and 43 days in filing LPA-992-2024 is condoned.

Applications are, accordingly, allowed.

Main appeals

1. Consideration in the present appeals, filed by the State and the private respondents in the writ petitions, is to the judgment dated 30.01.2024, whereby the learned Single allowed two writ petitions, being CWP-18522-2023 and 19528-2023, with costs of Rs. 50,000/- to be recovered from the officer concerned for creating the litigation, to be paid to the writ petitioners. Resultantly, directions were issued to take steps according to the result forthwith and issue necessary orders within a period of one month.

2. The present case is a classic case, where the State opened the door for ineligible persons and issued appointment letters in favour of the persons, who were not even eligible to sit in the written examination, whereas the ones who were qualified were shown the exit door and have to knock the doors of this Court to get relief, which has been rightly granted by the learned Single Judge in the facts and circumstances of the case.

3. The issue which arose before the learned Single Judge was that a public notice-cum-corrigendum dated 26.08.2023 (Annexure P-18) was issued during the pendency of the litigation, whereby the Assistant Director, Directorate of Education Recruitment, Punjab, came to the conclusion that for recruitment of 168 Physical Education Master/Mistress, advertised vide



advertisement dated 08.01.2022 (Annexure P-5), the requirement of passing the Punjab State Teacher Eligibility Test-2 (PSTET-2) was not mandatory. Resultantly, with lightning speed, public notice dated 31.08.2023 (Annexure P-20) was issued, wherein the candidates were asked to come and get station selections on 01.09.2023. The said exercise was thankfully nipped in the bud by taking up CM-14795-CWP-2023 and CM-14805-CWP-2023 in CWP-18522-2023, which were taken up by the learned Single Judge on account of a working Saturday on 02.09.2023, and a direction was issued that the station head officers would not allow the candidates to join and give posting to the concerned persons till the disposal of the case. The interim order passed by the learned Single Judge reads as under :-

“Learned counsel for the petitioners submits that after the merit list was prepared, the eligibility criteria for selection for the post of Physical Education Teaching cadre (Group C service) has been changed and the requirement of Teacher’s Eligibility Test has been done away, resulting in revising of the merit after the final merit was already prepared.

Learned counsel submits that the action could not have been done after the selection process had been concluded and only appointment orders were required to be issued.

Learned counsel submits that the writ petition had been filed by the petitioners wherein notices were issued on 23.08.2023. After the notices have been issued, the respondents have changed the criteria on 26.08.2023 and issued a public notice on 31.08.2023, and have also issued appointment orders with directions to join.

Notice in the application.



Mr. Paramjit Batta, Addl. A.G., Punjab accepts notice on behalf of State.

Counsel for the State, on instructions from Shashi Garg, Law Officer, DSE (S), Punjab, submits that the appointment orders have been issued by the department and the stations have been allotted.

I have considered the submissions.

*Taking into consideration that judgment passed by the Constitution Bench in the case of ‘**Sivanandan C. T. and others vs. High Court of Kerala and others**’ reported in **2023 INSC 709** decided on 12.07.2023, the respondents prima facie could not have changed the merit list by changing the criteria.*

If the respondents are allowed to join the candidates on the basis of a revised merit list, further complications would arise.

Therefore, the Director Education is directed to restrain the station heads not to allow the candidates to join and give posting to the concerned persons and take work from them, who have been placed in the revised merit list, till the disposal of this case.

List again on 20.09.2023, in the Urgent List.

In the meanwhile, the respondents/State shall file their affidavit and reply, if they so choose.”

4. The genesis of the litigation stemmed from the fact that as per the advertisement in question, the applications had been invited as such, the last date of which was 30.01.2022. The rules, which govern the posts in question, are the Punjab Educational (Teaching Cadre) Border Area Group C Service Rules, 2018, notified on 21.05.2018/01.06.2018. The relevant clause reads as under :-

“7. Teachers’ Eligibility Test – Wherever applicable in direct recruitment as per guidelines framed by the



National Council of Teachers Education, Government of India, the Teachers' Eligibility Test shall also be one of the essential qualifications for the recruitment in the Service."

5. As per Appendix 'B' appended to the 2018 Rules, regarding method of appointment, qualifications and experience, necessary qualifications were prescribed and at serial No. 9 thereof, the eligibility criteria for appointment to the post of Physical Education Master/Mistress had been prescribed. Rule 7 of the 2018 Rules was amended vide notification dated 26.02.2020. The substitution of Rule 7 was done as under :-

"7. Teachers' Eligibility Test –

No person shall be appointed in the Service by direct recruitment unless he qualifies the Teachers' Eligibility Test as per guidelines framed by the National Council of Education, Government of India."

6. The advertisement in question also dealt with other posts belonging to the subjects of Music, Mathematics, Science, which specifically provided that the mandatory requirement as such was that the candidate should have passed the PSTET-2 conducted by the Punjab Government under the Right of Children to Free and Compulsory Education Act, 2009. The correct translation of which reads as under :-

"Apart from the above given qualifications, for the posts of Master/Mistress teachers, it is mandatory for the candidates to pass the Punjab State Teacher Eligibility Test-2 (P.S.T.E.T-2) to be conducted by the Punjab Government under R.T.E. Act."

7. It is not disputed that the candidates sat in the written examination on 04.09.2022 and the result was declared on 06.10.2022 (Annexure P-8).



Vide notice dated 04.11.2022 (Annexure P-9), the candidates were called for scrutiny of their original documents on 10.11.2022 and 11.11.2022. Interestingly, in the list of documents, which were to be brought by the candidates at the time of scrutiny, there was no mention regarding PSTET-2. The second notice dated 19.12.2022 (Annexure P-10) fixed the dates for scrutiny of original documents of the candidates from 21.12.2022 to 23.12.2022 and it specifically mentioned that only those candidates who had compulsorily passed the PSTET-2 should report for counselling. The relevant part reads as under :-

“It is clarified here that only those candidates who have compulsorily passed the P.S.T.-2 as per the condition mentioned in the advertisement should report for counselling, those candidates are invited for Scrutiny of original documents at Education Recruitment Directorate, Punjab, Government Model Senior School (Microsoft Building), Phase-3B1-1, SAS Nagar (Mohali) from 21-12-2022 to 23-12-2022 from 9 : 00 AM to 3 : 00 PM.”

8. Apparently, representations (Annexure P-14) were received by the necessary quarters concerned from the present appellants, who had not passed the PSTET-2 but still appeared in the written examination, being fully aware that they were not eligible. Thereafter, the Government of Punjab, in order to muddy the clear water, wrote communication dated 27.06.2023 (Annexure R-4/10) to the NCTE, whereby necessary clarification on Teacher Eligibility Test (TET) was sought, not only for the Physical Education Teachers but for other subjects also. The same reads as under :-

“Kindly refer to the subject cited above. You are requested to clarify on the following two points :-



- a. *Whether TET is required for teachers of Physical Education as per NCTE guidelines/regulations.*
- b. *Whether TET is required for teachers of Music, Home Science, Urdu and Art & Craft as per NCTE guidelines/regulations.*

You are requested to send the clarification at the earliest possible.”

9. The response from the NCTE was received on 17.07.2023 (Annexure R-4/11), whereby it was mentioned that for teachers of Physical Education for classes I to XII, TET was not required. With regard to teachers of Music, Home Science, Urdu and Art & Craft, it was mentioned that for classes IX to XII, qualification was laid down in the First Schedule of the NCTE (Determination of Minimum Qualifications for Persons to be recruited as Education Teachers and Physical Education Teachers in Pre-primary, Primary, Upper Primary, Secondary, Senior Secondary or Intermediate Schools or Colleges) Regulations, 2014, notified on 12.11.2014 as amended on 14.10.2022. It was further mentioned that TET was mandatorily required to be eligible for consideration of appointment of education teachers for classes 1 to 8. For classes 9 to 12, it was mentioned that for Education teachers, TET was not one of the essential qualifications.

10. The qualified and eligible candidates knowing that the State was now opening the window for the ineligible candidates as such filed the writ petitions seeking directions to the State that the appointment letters be issued to the eligible and meritorious candidates, who had appeared in the recruitment examination for the post of Master/Mistress in Physical Education in pursuance of the advertisement in question; and for restraining the State from changing the criteria of selection, i.e., removing the eligibility condition of



clearance of PSTET-2 being a mandatory condition. A direction to the State was also sought to conclude the selection and upload the list of eligible candidates to the post of Master/ Mistress in Physical Education, on the ground that an attempt was being made to change the criteria after the selection process had commenced and only appointment letters had to be issued.

11. As noticed above, the process of appointment was attempted to be made by considering the cases of ones who had not sat in the PSTET-2 examination, on the basis of the representations by them. Apparently, the same was on account of a decision taken by a Committee constituted by the Government on 12.04.2023, consisting of (1) The Director, S.C.E.R.T., Punjab; (2) Shri Harpreet Singh, Assistant Director, Office of Education Recruitment Punjab, Director (Secondary), Punjab (Member Secretary); (3) The Director, School Education (Secondary), Punjab (member Secretary); and (4) Shri Jasvir Singh Legal Assistant, Office O.S.D. (Litigation), Punjab. The said Committee submitted its report dated 28.04.2023, which reads as under :

“The advertisement for Master Cadre Physical Education was published on 08.01.2022. Apart from the post of Physical Education Master, posts of 07 other subjects were also published and being common advertisement, the condition of passing TET was imposed. But now, on perusing the departmental rules 2018 (amended from time to time), the guidelines of the N.C.T.E. (alongwith amendments made from time to time) and conditions of the advertisement in a holistic manner (in conjunction), it has come to light that it is not mandatory to pass P.S. TET-2 for the post of Physical Education Master. Though at the time of publishing all the posts in the



advertisement, the condition for P.S. TET-2 was automatically imposed on all the posts including the post of Physical Education Master, but as per legal as well as technical point of view, the departmental advertisement can never over rule or set aside departmental rules, guidelines of NCTE. So considering this point and looking at all the issues in a holistic manner, the Committee has come to the conclusion that it is not mandatory to pass P.S. TET-2 for the post of Physical Education Master.”

A decision dated 25.08.2023 (Annexure A-3) was then taken by the Secretary to Government of Punjab, Department of School Education, in which it was found that the representation was received. The reason which weighed with the Government was the said report dated 28.04.2023 and also the fact that the mandate of passing PSTET-2 was based on the mistaken interpretation of applicable Rules.

12. Accordingly, the State came to the conclusion that it was only the qualifying factor, which was relevant, and the marks secured in PSTET-2 were not to be counted while preparing the merit list. The merit was to be based on the marks scored in the 150 marks subject-specific test. A fall back was made upon two judgments of the Apex Court, i.e. Civil Appeal No. 152 of 2022, titled “The Employees State Insurance Vs. Union of India”, and Civil Appeal No. 1867 of 2006, titled “Malik Mazhar Sultan & Anr. Vs. U.P. Public Service Commission & Ors.”, by coming to the conclusion that an erroneous advertisement would not create a right in favour of applicants, who act on such advertisement.

13. A fall back was made on the recommendation of the NCTE that a mistake had happened while interpreting and applying the Rules, which could



not override the provisions of law and, thus, the Government was duty bound to correct the same and not allow any illegality to perpetuate. It was further observed that considering the public interest of thousands of candidates, who were allowed to write the subject-specific test of 150 marks; the cost of efforts made by the recruiting agency in conducting the test; the paramount need of teachers in the schools across the State; and in view of the Rule position, the Secretary came to the conclusion that a corrigendum-cum-public notice be issued and the merit list based on the candidates' marks scored in subject-specified test of 150 marks be finalized, by doing away the requirement, which had been duly advertised.

14. As noticed, the grouse of the writ petitioners was that the merit list was never made public and the provisional selection list (Annexure R-6/9) was then uploaded on 30.08.2023, and immediately thereafter, public notice (Annexure P-20) was issued on 31.08.2023 calling the candidates on 01.09.2023 at 9.00 AM to get station selections, which eventually led to passing of the stay order by the learned Single Judge on 02.09.2023, as reproduced above.

15. Learned senior counsel for the appellants and the State counsel have heavily relied upon the recommendation of the NCTE and submitted that the learned Single Judge was in error in holding that there was a merit list prepared, as the final result was declared and uploaded on 30.08.2023 and the provisional list as such which had been attached with the writ petition was not the final merit list. There was only a right of consideration to the writ petitioners and, therefore, the learned Single Judge fell in error in allowing the writ petitions. Rule 7 of the 2018 Rules never provided for holding of



PSTET-2 test, as has been clarified by the NCTE. Mr. Khurana, appearing for the State, also submitted that the decision taken by the State was on the basis of the Committee's recommendation dated 28.04.2023 and it was a reasoned decision. It was, thus, not within the purview of the learned Single Judge to review the said decision and allow the writ petitions and impose costs.

16. On the other hand, learned counsel for the respondents (writ petitioners) specifically pointed out that as per the amended Rule 7, it is provided that no person shall be appointed in the Service by direct recruitment, unless he qualifies the Teachers' Eligibility Test as per guidelines framed by the National Council of Education, Government of India. Reference was also made to the guidelines dated 11.02.2011 (Annexure P-4) as such to submit that there is prescribed performa. It was further argued that the appellants had never challenged the advertisement and chose to sit in the said examination being ineligible and they had not objected to the same being at variance with the Rules. In the same advertisement, for the posts of Music teachers, the State had provided higher qualification and even for promotion, they provided the requirement of passing of TET. The test for the post of teachers of Physical Education subject was also held on 30.04.2023 at subsequent point of time for the said purpose as per the terms of the advertisement. In such circumstances, it was argued that the order of the learned Single Judge is well justified.

17. The reasoning which weighed with the learned Single Judge was that the candidates had applied under an advertisement, where the qualifications were required to be possessed as on the last date of submission of application form and this requirement of passing PSTET-2 was independent of the individual requirement for the various posts of different subjects. The



candidates who had participated in the selection process had never challenged the conditions of the advertisement and, therefore, action of the State as such, whereby it changed the said requirement, could not be said to be justified. It was held that decision as such of the State, which was taken on 25.08.2023, was a painful conclusion that a mistake had happened while interpreting and applying the rules. It was further observed that the State had performed its duties irresponsibly and created the litigation. After the selections were done at the behest of the candidates who had passed the written examination but were originally ineligible, the concerned officer of the State Government had proceeded to declare the requirement as a mistake committed. Thus, it was held that it was an exercise done to give the benefit to a few persons who were originally ineligible and thus were given additional advantage and, therefore, it was violative of Article 14 of the Constitution of India. Ineligible candidates could not be given the additional advantage and the order passed by the State to support such an action was deprecated being arbitrary and capricious. It was noticed that for recruitment to the post of Music teachers, which is also subject matter of the same advertisement, a separate stand had been taken that the State could provide higher qualification. It was also found that the PSTET exam in various subjects including that of Physical Education was conducted in the year 2023. The argument that there was no requirement of PSTET in appointment of Physical Education Masters was, therefore, repelled.

18. Reference was also made to various letters issued on 16.05.2023 (Annexure P-22) and 08.09.2023 (Annexure P-23), whereby the State itself had clarified that for promotion to the post in question, requirement of passing of TET was there. Similarly, public notice (Annexure P-25) had also been



issued wherein for promotion from the Non-Teaching Cadre to the Master Cadre, it had been clarified that the candidates who were without TET pass would be ineligible. Resultantly, it was held that attempt to change the rule after the game had already been played. Reliance was placed upon the judgments of the Apex Court in **Sivanandan C.T. and others Vs. High Court of Kerala and others**, 2024 (3) SCC 799 and various other judgments on this aspect. Action of the State Government in tinkering with the conditions of the advertisement which stood already acted upon was thus held to be clearly illegal. One of the important aspects which was noted was that many aspirants would not have even applied on account of having not possessed the qualification of PSTET-2 and therefore had been deprived of their consideration and appointment.

19. We are of the considered opinion that the findings recorded by the learned Single Judge are very well justified in the present facts and circumstances on the simple principle that once the State itself had advertised the posts in question and made it compulsory to pass PSTET-2, it could not as such have gone back on the same and open the door to candidates who sat in the written examination knowing that they were ineligible in pursuance of the advertisement. They had no legal right as such to sit in the examination in the first place. Their consideration or their eligibility was even subject to scrutiny at the time of preparation of the final merit list and they would have been rendered ineligible at that point of time, as per the terms of the advertisement. Being very well aware that they were ineligible, they apparently filed representations, which were, as noticed above, eagerly acted upon by the State. This act of the State thus amounts to giving a premium to ineligible candidates



who participated in the examination process and became eligible. A certain set of persons who never applied for the posts in question on account of the fact that the advertisement was crystal clear not only regarding the posts in question but also for posts of other subjects. We find it difficult as to how for the Music teachers, the State has taken the stand that it can provide higher qualification. If that is the stand for teachers of one of the subjects, the same stand would also apply for the teachers of other subjects in the same advertisement by the State. The stand taken by the State in the reply (Annexure P-21) filed in **CWP-10714-2023, titled “Aman Kaur Vs. State of Punjab and others”** reads as under :-

“4. That it is crystal clear from the above para that the basic qualifications mentioned in the advertisement is in accordance with the Punjab Educational (Teaching Cadre) Border Area Group ‘C’ Service Rules, 2018. It is a well settled principle that recruitment agency can fix better qualification in order to get best available talent and the petitioner cannot dictate the respondent authorities to fill the vacancies as per her qualifications.”

20. In CWP No. 1914 of 2022, titled **“Sandip Singh and others Vs. State of Punjab and others”**, vide judgment dated 03.02.2022, authored by one of us (G.S. Sandhawalia, J.), while dealing with an advertisement of even date for the post of Art and Craft teachers, wherein challenge was made that additional qualification of passing TET had been wrongly made mandatory, it was held that the State can always prescribe higher qualification and upgrade the same and no fault can be found in such action. The said judgment has been upheld by the Apex Court on 28.03.2022 in Petition for Special Leave to Appeal (C) No. 5213/2022. The relevant part reads as under :-



“The advertisement in question dated 08.01.2022 (Annexure P-9) initially as such for the 250 posts did not mention the substituted educational qualifications of 2021 and necessary corrigendum was issued on 18.01.2022 (Annexure P-10) wherein, the recruitment as per the substituted eligibility criteria was also incorporated. The condition as such of passing Punjab State Teachers' Eligibility Test-2 for filling up the said posts was also made the requisite requirement.

Admittedly, the petitioners are Matric pass and diploma holders and, thus, cannot claim to have any vested right as such for consideration on the ground of hardship which has been alleged to be caused. It is for the employer to see what are the requisite educational qualifications for the teachers that it wishes to employ and it is not for this Court as such, to substitute its opinion on the strength of the argument which is raised by counsel for the petitioners that hardship has been caused to them. Nothing as such could be pointed out which would go on to show that the prescription of higher qualifications, which are now in the form of Graduation with B.Ed from a recognized university or institution and having two years' diploma in the same alongwith the graduation degree can be said to be bad.”

21. Learned counsels for the respondents (writ petitioners) are justified as such to point out that the principles laid down by the Apex Court in **Govt. of NCT Delhi & Ors. Vs. Pradeep Kumar & Ors., 2019 (10) SCC 120** would also be applicable, whereby the appeal was allowed and the judgment of the Delhi High Court was set aside, by noticing that the candidates having obtained the eligibility qualification with lower pass marks under the relaxed norms had been given the benefit. It was held that once the reserved category



candidates had not secured the normal pass marks for general category in the preliminary examination, their eligibility for the general category vacancies could not be secured. Therefore, their performance in the selection examination would be of no relevance, in the said process. Therefore, they could not be allowed to migrate and compete for the open category vacancies.

The relevant paragraph reads as under :-

“25. The respondents with their CTET qualification under relaxed norms would be eligible for OBC category posts provided their OBC status is certified and recognized by the Delhi government. But such not being the case, they are ineligible for the reserved category vacancies. To allow them to migrate and compete for the open category vacancies would not be permissible simply because, they have secured the CTET qualification with relaxation of pass marks meant for those belonging to the OBC category. As the respondents have not secured the normal pass marks for general category, their eligibility for the general category vacancies is not secured. Therefore, their performance in the selection examination would be of no relevance, in the present process.”

It was, accordingly, held that considering the reserved category candidates had secured the qualification under relaxed norms it would lead to dilution of merit in the unreserved category, apart from the fact that their eligibility was not there.

22. In the present case, as noticed, without passing the test, which was the mandatory requirement, the appellants as such were seeking the entry into service. In **CWP No. 12722 of 2022**, titled **“Employees’ State Insurance Corporation and others Vs. Amandeep Singh and others”**, decided on



02.06.2022, while upholding the order of the Central Administrative Tribunal, this Court has held that criteria cannot be changed to the detriment of the applicants, at the last moment by prescribing the minimum qualifying bench mark.

23. The reasoning of the learned Single Judge and the factual matrix, if examined, would go on to show that apparently, the appellants were given the preference as such and in a roughshod manner, and the candidates who were eligible were sought to compete with the ineligible persons by opening the door to the ineligible candidates. The State once having advertised and put the said condition of passing PSTET-2 could have only one option to withdraw the advertisement at that point of time. It could not have proceeded as such in the manner it has proceeded to take a decision at the expenses of the eligible candidates. Having not chosen to do so, and once the matter was before this Court, and the writ petitioners were seeking a positive affirmation of their rights, the writ court was well justified to quash the decision of the Government, which was taken during the pendency of the litigation. A perusal of the amended Rule rather would go on to show that it starts with non obstante clause that no person shall be appointed in the service by direct recruitment unless he qualifies the Teachers' Eligibility Test, which aspect was not even taken into consideration by the Committee in its report dated 28.04.2023, which prevailed with the Government.

24. The guidelines dated 11.02.2011 (Annexure P-4) of NCTE as such, if examined, would also go on to show that the number of marks to be awarded for the subjects have been bifurcated for classes VI to VIII, which would be relevant for PSTET-2. The said portion reads as under :-



“Paper II (for classes VI to VIII); No. of MCQs – 150;

Duration of examination : one-and-a-half hours

Schedule and Content

- (i) *Child Development & Pedagogy (compulsory) 30 MCQs 30 Marks*
- (ii) *Language I (compulsory) 30 ” 30 ”*
- (iii) *Language II (compulsory) 30 ” 30 ”*
- (iv) (a) *For Mathematics and Science teacher:*
Mathematics and Science - 60 MCQs of 1 mark each
- (b) *For Social studies teacher:*
Social Studies - 60 MCQs of 1 mark each
- (c) *For any other teacher - either 4(a) or 4(b) ”*

The said aspect has also been clarified by the Information Bulletin issued by the Board of School Education, Haryana (Annexure P-16), which can be kept in mind for the purpose of deciding the present appeals, which specifically provides separate set of 60 questions for Mathematics and Science Teacher and Social Studies Teacher, which have to be answered by the concerned candidate, to which stream he belongs. The said clarification reads as under :-

“6.2 Level – II – For becoming Teacher for Classes VI-VIII: Elementary Stage (TGT)

There shall be only one paper. All questions will be Multiple Choice Questions (MCQs) each carrying one mark with four alternatives out of which one answer will be correct.

No. of MCQs- 150: Duration of Examinations: Two-and-a-half hours.

Structure and Content:

- (i) *Child Development & Pedagogy (Compulsory) 30 MCQs 30 Marks*
- (ii) *Language I – (English) (Compulsory) 30 MCQs 30 Marks*
- (iii) *Language II 30 MCQs 30 Marks*
(Hindi/Sanskrit/Punjabi/Urdu – Choose any one)
- (iv) (a) *For Mathematics and Science Teacher :*
Mathematics and Science
60 MCQs 60 Marks



(b) For Social Studies teacher : Social Studies
60 MCQs 60 Marks

(c) For Hindi/English/Sanskrit/ Choose either (iv) (a) OR iv (b)
Panjabi/Urdu/Home Science/ 60 MCQs 60 Marks
Physical Education/Art/Music Teacher”

25. In such circumstances, we are of the considered opinion that we have been forced to deal with an unwarranted litigation only on account of the fact that the State had chosen to entertain the ineligible candidates, who would also be estopped from challenging the terms and conditions of the advertisement, as has been held by several Full Bench decisions of this Court, whereby it was held that the prospectus or the advertisement is binding upon the candidates. Reliance can be placed upon the Full Bench decisions of this Court in *Amardeep Singh Sahota vs. State of Punjab 1993 (2) PLR 212, Raj Singh vs. Maharishi Dayanand University 1994(2) S.C.T. 766, Sachin Gaur v. Punjabi University 1996(1) S.C.T. 837, Rahul Prabhakar v. Punjab Technical University, Jalandhar 1997(3) S.C.T. 526, Indu Gupta v. Director of Sports, Punjab 1999(4) S.C.T. 113 and Rupinder Singh and others v. The Punjab State Board of Technical Education & Industrial Training, Chandigarh and others 2001(2) S.C.T. 726.*

26. The judgments of the Apex Court in *Madan Lal and others Vs. State of Jammu & Kashmir and others, (1995) 3 SCC 486; K.A. Nagamani Vs. Indian Airlines and others (2009) 5 SCC 515; Manish Kumar Shahi Vs. State of Bihar and others, (2010) 12 SCC 576; Madras Institute of Development Studies and another Vs. Sivasubramaniyan and others, (2016) 1 SCC 454 and Ashok Kumar and another Vs. State of Bihar and others, (2017) 4 SCC 357* would go on to hold that candidates having sat in the process of selection cannot at a later point of time question the criteria which



had been fixed. Thus, the appellants also cannot cross the legal barrier laid down in the said judgments.

27. Resultantly, no fault can be found in the order of the learned Single Judge and the appeals are, thus, dismissed *in limine*.

28. The State is directed to proceed with the selection process and consider the cases of the eligible candidates as per the terms of the advertisement only and shall take necessary steps to make appointments by 01.07.2023.

29. In the peculiar facts and circumstances of the case, since we are dismissing the appeals *in limine*, we do not impose further costs.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

May 14, 2024
ndj

Whether speaking/reasoned	Yes
Whether reportable	Yes