



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

259 Date of Decision: 07.08.2024

- 1) CWP-8117-2023

PREM PARKASH AND OTHERS

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)
- 2) CWP-8652-2023

NIRMALA DEVI

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)
- 3) CWP-12458-2023

HARJINDER KAUR

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Sunil Kumar Nehra, Advocate and
Mr. Ravinder Malik (Ravi), Advocate
for the petitioners. (in CWP-8117-2023)

Mr. Sunil Kumar Dhanda, Advocate
for the petitioner. (in CWP-8652-2023)

Mr. Bikramjit S. Patwalia, Advocate
for the petitioner. (in CWP-12458-2023)

Mr. Rohit Arya, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

These petitions are based upon similar facts involving common
issues, accordingly, the same are being decided together. For brevity, the facts
have been taken from CWP No.8117 of 2023.



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2. The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 20.02.2023, Annexure P-10, whereby the petitioners' claim for appointment to the post of Post Graduate Teacher (PGT) Mathematics has been rejected by refusing them exemption from clearing Haryana Teacher Eligibility Test (HTET)/School Teacher Eligibility Test (STET) on the basis of teaching experience.

2.1 The third respondent/Haryana Staff Selection Commission, issued advertisement 1 of 2012, dated 07.06.2012, Annexure P-1, inviting applications for various posts, including PGT Mathematics, category 1, for the respondent-Secondary Education Department. Requisite qualifications for the post were as under:

- a) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject.
- b) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/School Teachers Eligibility Test (STET) of respective subject for the post applied, conducted by Board of School Education Haryana, Bhiwani/One time exemption of HTET (See Note-2).
- c) Consistent good academic record (See Note-1).
- d) Essential qualification (EQ) is given with each post.

2.2 The candidates, who had worked as Teachers in privately managed Government aided schools, recognized schools and Government schools for minimum four years till 11.04.2012, were exempted from possessing HTET/STET as per stipulation in the advertisement; Note-2 whereof reads as under:



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A one time exemption of HTET/STET has been granted to the candidates who have worked for minimum 4 years till 11.04.2012 in privately managed Govt. Aided Schools, Recognized Schools and Govt. Schools. Candidate must be in service on 11.04.2012 in addition to being in position on the date of applying for the said post. They will have to qualify HTET not later than 1st April 2015 otherwise their services will be terminated automatically. Qualification/eligibility conditions and certificates will be determined with regard to last date fixed for submission of online applications also called as closing date given in the advertisement.

2.3 The petitioners applied for the post of PGT Mathematics, since they possessed the requisite qualifications; and were required to be exempted from HTET/STET in terms of Note-2 of the advertisement, as they had four years' experience till 11.04.2012. Their experience certificates are appended with the petition as Annexures P-3 to P-7, to establish that they have experience of teaching Mathematics to class 6 to 10 as Guest Teachers in different Government Schools under the Department.

2.4 The petitioners participated in the selection process, but were not considered eligible for exemption from passing HTET/STET on the ground that their experience as Guest Teachers was not gained by working as PGTs.

2.5 They had earlier approached this Court impugning the action by filing separate writ petitions, which were disposed of by a common order, dated 27.07.2022, passed in CWP No.17432 of 2012, directing the respondents to consider the representations regarding their claim to have gained PGT experience by teaching class 9 and 10. It was also ordered that till



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decision on their representations is taken, the posts would kept vacant for them.

2.6 The representations were decided by the respondents vide impugned order dated 20.02.2023, rejecting the petitioners' claim that their experience cannot be considered valid. The reasoning is, despite having taught class 9 and 10 as Guest Masters/Teachers in government schools, they could not be considered having PGT experience as their appointment was not as PGTs/Lecturers. Head of the institutions/schools allots higher classes to Masters to take care of students' interests, but that experience is not to be treated equivalent to that of PGTs. In this regard, two judgments rendered by this Court have been relied upon; the first one was rendered in CWP No. 19687 of 2012, titled *Ajit Kumar v. Haryana School Teachers Selection Board and Another*; and the second one was in CWP No.18569 of 2012, titled *Anamika Gupta v. State of Haryana and others*.

2.7 In this background, the petitioners approached this Court second time by filing the instant petitions. They were provisionally interviewed during pendency of the petitions, and the result was kept in a sealed cover; vide interim orders passed by this Court, posts have been kept reserved/vacant for the petitioners in all the aforementioned petitions.

3. Learned counsel for the petitioners have contended that the impugned order is contrary to law as well as facts. The petitioners have gained teaching experience as Guest Teachers in different Government schools by teaching classes 6 to 10. These classes are taught by the PGTs, earlier known as Lecturers, in schools under the Department. Therefore, there was no basis to discredit their experience, and decline exemption from passing HTET/STET on that basis. The judgments relied upon in the impugned order



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are also not applicable. The judgment in *Anamika Gupta* case, dated 11.12.2012, had, in fact, been reviewed and recalled by the Division Bench while allowing the review application vide order dated 02.04.2013. It was on the ground that the petitioner therein had been working as PGT, and possessed the requisite four years' experience till 11.04.2012. Accordingly, she was held entitled to be considered for the post of PGT; the observations of the Court are as under:

2. The submission of the applicant/petitioner appears to be direct in view of Annexure P-6 annexed alongwith this review application which is an experience certificate issued by Maharaja Aggarsain Kanya Varisht Madhyamik Vidyalaya, Jind. As per this experience certificate dated 29.07.2006, the applicant/petitioner had been working as PGT from 06.07.1998. Thereafter, as per Annexure P-7, she worked as Mathematics Lecturer w.e.f. 30.07.2006 to 21.02.2012. These two documents clearly show that the applicant/petitioner has the requisite four years' experience as PGT as on 11.04.2012.

3. We accordingly allow this review application and recall our orders dated 11.12.2012. As a consequence, the writ petition is allowed holding that the petitioner possesses the requisite experience and she is entitled to be considered for the post of PGT in terms of this Court's judgment in CWP No.15929 of 2012, titled as Shivani Gupta and others Vs. State of Haryana, decided on 21.12.2012.

The second judgment in *Ajit Kumar* case was considered by this Court in another judgment rendered in CWP No.6705 of 2013, titled *Sushil Kumar v*



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State of Haryana and others, dated 12.03.2014, holding that the former was rendered on different facts as the petitioners therein had experience of teaching in a Middle School up to class 8 only which could not have been counted for seeking exemption for a post of PGT; the observations of Court are as under:

The judgment relied upon by the counsel for the respondent in *Ajit Kumar's* case (supra) was a case where the employee although working as a Math Master in Government Girls Senior Secondary School, Salmba, Block Nuh, District Mewat but since he was teaching the students upto 8th class as it was a Middle school, the said experience could not have been counted for the purpose of seeking exemption for a PGT Teacher. Reliance upon the *Kamlesh's* case which was referred to in the judgment in *Ajit Kumar's* case (supra) also would not help the stand of the respondents as the petitioner in that case was having an experience of a Primary School which would not be, therefore, relevant for the appointment to the post of PGT Teacher.

On the strength of these submissions, learned counsel contend that rejection of the petitioners' representations vide the impugned order was without any basis.

4. *Per contra*, learned State counsel has argued that the petitioners are not entitled to count their experience as PGTs because they have not worked on such posts. The experience of teaching higher classes as Guest Masters/Teachers in different schools does not entitle them to exemption as they have been appointed to teach lower classes only, and their claim has been rightly rejected by the Department. He, however, is not in a position to dispute



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that the judgments referred to in the impugned order are not applicable to the petitioners' case, as the judgment in *Anamika Gupta* case has been recalled vide order dated 02.04.2013, and the one in *Ajit Kumar* case is on different facts.

5. Submissions made by learned counsel for the parties have been considered.

6. The issue arises for consideration is, *whether experience gained by a candidate by teaching standard 9 and 10 (meant for PGTs) while working as Master/TGT, would entitle him/her to claim exemption from HTET/STET in terms of Note-2 of the advertisement.*

7. The petitioners are candidates for the PGT posts in question for which relevant essential qualification is 'certificate of having qualified HTET/STET of respective subject for the post applied'. And to be entitled to exemption from HTET/STET one has to possess minimum four years' teaching experience till 11.04.2012, either in privately managed Government aided schools or recognized schools or Government schools. It has been held by this Court earlier, including in *Ajit Kumar* case, that the experience for seeking exemption has to be on the post of PGT in the respective subject. The petitioners herein possess teaching experience for the relevant subject by teaching standard 6 to 10 in the prescribed schools as Guest Masters/Teachers (TGTs).

7.1. It is an undisputed fact on record that prior to notification of the Haryana State Education School Cadre (Group B) Service Rules, 2012, Junior Basic Training(JBT) teachers were teaching students of standard 1 to 6; Master/Mistress of standard 7 to 10; and lecturers of standard 11 and 12. After notification of the Rules, nomenclature of JBT teacher was changed to



Primary Teacher (PRT) and they were to teach standard 1 to 5; that of Master/Mistress was changed to TGT for standard 6 to 8; and that of lecturer was changed to PGT for standard 9 to 12. Some of the petitioners, admittedly, have been teaching standard 6 to 10, and others, standard 9 to 12.

7.2. Since a PGT is required to teach from standard 9 to 12, and all the petitioners have been teaching these standards, some of them exclusively and others by simultaneously teaching lower standards as well, it cannot be said they do not have experience of teaching the classes meant for PGTs. To claim exemption from HTET/STET under Note-2, a candidate should 'have worked for minimum four years till 11.04.2012'. Apparently, it is not required that a candidate has to possess the experience by teaching the classes meant solely for PGTs, nor is it stipulated that a candidate simultaneously teaching classes meant for TGTs and PGTs cannot claim exemption. Resultantly, in case a candidate has taught PGT as well as lower classes concurrently, his/her experience as PGT cannot be discarded only on that score. It is illogical and unreasonable to do so, and would amount to wiping out a candidate's experience for PGT classes which cannot be countenanced. Teaching TGT and PGT classes at the same time, cannot be to a candidate's disadvantage. In *Ajit Kumar* case this Court was not concerned with a candidate's experience gained by teaching TGT as well as PGT classes simultaneously; therefore, its observation that requisite experience should be on the post of PGT has to be read in the context where a candidate's concurrent experience is not the issue. Accordingly, the petitioners' teaching experience of standard 9 and 10 (meant for PGTs) while working as Guest Master/TGT is required to be considered as PGT experience, for exemption from passing HTET/STET in terms of Note-2 of the advertisement.



8. In view of the discussion, the petitions are allowed and the impugned orders dated 20.02.2023 (in CWP-8117-2023), 21.02.2023 (in CWP-8652-2023) and 02.05.2023 (in CWP-12458-2023) are hereby set aside. The respondents are directed to consider the petitioners’ teaching experience valid for exemption from clearing HTET/STET, and offer them appointment on the post of PGT Mathematics and Biology, as the case may be, subject to fulfilling the requisite conditions, from the date other selected candidates have been appointed. They shall be entitled to all notional benefits from the date of appointment and actual benefits from the date of joining service. The directions are to be carried out within two weeks of receiving a certified copy of this judgment. There should be no order as to costs.
9. Pending miscellaneous application(s), if any, shall also stand(s) disposed of as having been infructuous.
10. A photocopy of this order be placed on the connected file.

(TRIBHUVAN DAHIYA)
JUDGE

07.08.2024
Ad

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>