



CWP-15778-2021 and other connected cases :1:

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207 (4 cases) CWP-15778-2021 (O&M)
MRIDULA Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS Respondents

2. CWP-16112-2021 (O&M)
NEERAJ Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS Respondents

3. CWP-4405-2022(O&M)
SANJEEV GUPTA Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS Respondents

4. CWP-21465 of 2021 (O&M)
Date of decision : 19.12.2024
PRIYANKA AND ANOTHER Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

**CWP-15778-2021 and other connected cases :2:**

Present :- Mr. R. K. Arora, Advocate
for the petitioner in CWP-15778-2021,
CWP-16112-2021 and CWP-4405-2022
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Ms. Alka Chatrath, Advocate with
Mr. Nikhil Singh, Advocate and
Mr. Shourya Mehra, Advocate
for the petitioners in CWP-21465 of 2021.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

In the present Bunch of petitions, the grievance of the petitioners is that though, on the last date of the application form, they were not eligible for the post of English Mistress/Master having the requisite qualification of passing an additional subject of 'English Elective' in B.A. but, the said fact was due to the Pandemic of Covid-19 and keeping in view such circumstances, the benefit of eligibility has been granted to the candidates, who have produced the eligibility up to the date of written test, which condition have been fulfilled by the petitioners.

Learned counsel for the petitioners submits that keeping in view the order passed by Hon'ble the Supreme Court in **Writ Petition (Civil) No. 408 of 2021 titled 'Deepak Yadav and others Vs. U.P.S.C. and another' decided on 16.07.2021**, the petitioners are also treated to be eligible for consideration of their claim qua the advertised post.

Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that the eligibility is to be seen on the

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last date and according to the said terms and conditions of the advertisement which are sacrosanct, the petitioners were not eligible to compete for the post in question and therefore, the grant of benefit cannot be extended. Learned counsel for the respondents further submits that as of now the selection is already over and all the posts in the category in which the petitioners were competing have already been filled up and therefore, question of consideration of the claim of the petitioners at this stage is not fulfilled.

I have heard learned counsel for the parties and have gone through the record with the able assistance.

Once, the result of the petitioners of the qualifying examination was declared before the written examination was taken on 20.06.2021 and the petitioners had also appeared for counselling and had participated in the selection process and further had even appeared for counseling, at which stage, the claim of the petitioners was rejected, keeping in view the judgment of Hon'ble the Supreme Court of India in **Deepak Yadav (supra)**, the petitioners were entitled to be considered eligible as the non-clearing of the examination by the petitioners was delay only due to the Pandemic of Covid-19.

Further, in the similar facts and circumstances where a candidate had qualified the eligibility criteria before the main examination, Honble Supreme Court of India in Deepak Yadav (supra) has granted the same relief as being claimed in the petitions, keeping in view the fact that petitioners had qualified the essential qualification before the written

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examination in the present case, the petitioners should have been treated eligible.

The only question which arise for consideration is that the selection process is over and the advertised posts have already been filled up according to the respondents, whereas the selected candidates are not party to the present petitions, hence, the claim of the petitioners cannot be directed to be considered at the cost of the candidates who have already been selected in pursuance to the advertised post, who were eligible as per the advertisement. Ousting such candidates at this stage is not feasible especially when selected /appointed candidates are not party to the these petitions.

Keeping in view the above, the present petitions are disposed of with the direction that in case any post advertised in the category in which the petitioners are competing is still lying vacant, the claim of the petitioners be considered in accordance with law keeping in view the merits obtained by them and in case and if the petitioners are meritorious enough keeping in view the last candidate selected henceforth, the petitioners be granted the benefit of selection and consequent appointment.

Let this order be complied with within a period of 08 weeks from the receipt of certified copy of this order.

The claim of the petitioners in CWP-21465 of 2021 is qua promotion. It may be noticed that the claim for promotion is different as, the consideration for promotion comes to an end when, the claim is considered by the DPC and the promotions are effected.

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In the present case, nothing has come on record that on the date when the DPC met, the petitioners had qualified the examination i.e. had minimum essential qualification required to be eligible for promotion.

Faced with this situation, learned counsel for the petitioners submits that in case after ascertaining all the facts, it comes to the notice that on the date of meeting of DPC, the petitioners had cleared the examination and were eligible under the Rules governing the service, the petitioners will file appropriate representation with the respondents so as to consider his eligibility and the respondents be directed to decide the same in time bound manner.

Learned counsel for the respondents submits that in case, any representation, has been received in the office of the concerned authorities and the same is still pending consideration with the authorities concerned, the same will be decided by the competent authority within a period of 08 weeks from the date of the receipt of certified copy of this order by passing an appropriate speaking order. Learned counsel further submits that in case, it is found feasible to accept the claim of the petitioners, the same will be accepted, otherwise due reasons will be mentioned for not accepting the claim of the petitioners in the speaking order to be passed and the said order will be conveyed to the petitioners for their information and necessary action.

Learned counsel for the petitioners submits that keeping in view the statement of learned State counsel, the present petition may kindly be disposed of having been not pressed any further.



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Ordered accordingly.

A photocopy of this order be placed on the connected case files
numbered above.

(HARSIMRAN SINGH SETHI)
JUDGE

19.12.2024
Rimpal

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