

2024 PHHC 094680-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

Reserved on: 16.07.2024
Pronounced on: 26.07.2024

1. LPA-1224-2023

MANDEEP KAURAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents

2. LPA-1226-2023

AMITA AND ANR.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents

3. LPA-1232-2023

NEETUAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents

4. LPA-1233-2023

SUKHPAL SINGHAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents

5. LPA-1234-2023

INDERJEET KAURAppellant

Versus

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STATE OF PUNJAB AND ORS.Respondents
6. LPA-1248-2023 (O & M)

KULWINDER SINGH AND ANRAppellants

Versus

STATE OF PUNJAB AND ORS.Respondents
7. LPA-1249-2023 (O & M)

RUPINDERPAL KAURAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
8. LPA-1297-2023

DEVINDER RANI AND ANR.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents
9. LPA-1351-2023

PARAMJEET KAUR AND ANR.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents
10. LPA-1355-2023 (O & M)

AMANDEEP KAURAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
11. LPA-1369-2023 (O & M)

KULVINDER KAUR ALIAS KULWINDER KAUR AND ORS.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents
12. LPA-1398-2023

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RAJESH PALAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
13. LPA-1460-2023

JATINDER KUMAR AND ANR.Appellants
Versus

STATE OF PUNJAB AND ORS.Respondents
14. LPA-1563-2023

JASVIR KAUR AND ANR.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents
15. LPA-1575-2023

SATNAM SINGHAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
16. LPA-1627-2023 (O & M)

RAJ KUMARAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
17. LPA-1446-2023 (O & M)

ASHOK KUMAR JAGGI AND ANR.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents
18. LPA-1461-2023 (O & M)

NITIKA RANI AND ANR.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents
19. LPA-1731-2023 (O & M)

GURPREET KAURAppellant

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Versus

STATE OF PUNJAB AND ORS.Respondents
20. LPA-1844-2023 (O & M)

MUNISH PABBIAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
21. LPA-1846-2023 (O & M)

DARBARA SINGHAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
22. LPA-1812-2023 (O & M)

MONIKA RANI AND ANR.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents
23. LPA-1813-2023 (O & M)

REETA RANIAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
24. LPA-458-2024 (O & M)

MAMTA RANIAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
25. LPA-1964-2023 (O & M)

JATINDER SINGHAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
26. LPA-1858-2023 (O & M)

BALJEET KAUR AND ANOTHERAppellants

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Versus

STATE OF PUNJAB AND ORS.Respondents
27. LPA-1904-2023 (O & M)

GURMEET KAURAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
28. LPA-345-2024 (O & M)

MANJUAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents
29. LPA-1442-2024 (O & M)

NISHA RANI AND ORS.Appellants

Versus

STATE OF PUNJAB AND ORS.Respondents
30. LPA-546-2024 (O & M)

HARJINDER KAURAppellant

Versus

STATE OF PUNJAB AND ORS.Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. Sunny Singla, Advocate and
Ms. Riti Aggarwal, Advocate for the appellant(s)
(In LPA Nos.1224, 1226, 1232, 1234, 1233, 1241, 1248,
1351, 1355, 1460, 1575, 1563, 1627, 1398, 1813, 1846,
1853, 1812, 1249, 1844, 1858 and 1297 of 2023 and 345,
546, 1442 of 2024).

Ms. Deepa Negi, Advocate for
Mr. S.S.Swaich, Advocate
for the appellant (in LPA-1904 and 1964-2023).

Dr. Rau P.S. Girwar, Advocate
for the appellant (in LPA-458-2024).



Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. All the LPAs herein though involve common question of law relating to non granting of relaxation in terms of Rule 19 of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 (hereinafter for short called as 'the 1994 Rules'), but yet though they arise from different advertisements/notice(s) issued, thus for making direct recruitments to different posts, nonetheless given the commonality(ies) of question of law (supra), inasmuch as, qua the validity(ies) of the raised espousals for relaxations in the upper age limit, becoming assigned to the appellants, thus they are liable to be decided through a common verdict.

2. Be that as it may, the facts of each of the writ petition(s) (supra) are yet required to be separately delineated.

LPA-1224-2023

3. The appellant herein prays for a mandamus being made upon the respondent concerned, to consider her case for appointment, to the post of Punjabi Mistress in Master Cadre as advertised on 28.02.2020, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for the quashing of clause 5 of the advertisement (supra), whereby the upper age limit of 37 years for general category candidates has been prescribed by the respondents in an illegal and arbitrary manner and ignoring the peculiar facts and circumstances of the case, especially the one appertaining to the

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respondent-Department advertising the said posts after lapse of a considerable period of time.

LPA-1226-2023

4. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their cases for appointment to the posts of ETT Cadre, as advertised on 30.07.2021 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1232-2023

5. The appellant herein prays for a mandamus being made upon the respondent concerned to consider her case for appointment to the posts of Master Cadre as advertised on 16.12.2021 and Public Notice dated 08.01.2022 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the public notice (supra).

LPA-1233-2023

6. The appellant herein prays for a mandamus being made upon the respondent concerned to consider his case for appointment to the posts of Master Cadre as advertised on 16.12.2021 and Public Notice dated 08.01.2022 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the public notice (supra).

LPA-1234-2023

7. The appellant herein prays for a mandamus being made upon the respondent concerned to consider her case for appointment to

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the posts of Master Cadre as advertised on 08.01.2022 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1248-2023

8. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment to the posts of ETT Cadre as advertised on 12.10.2022 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 (i) of the advertisement (supra).

LPA-1249-2023

9. The appellant herein prays for a mandamus being made upon the respondent concerned to consider her case for appointment to the posts of English Subject in Master Cadre as advertised on 06.04.2021 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1297-2023

10. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment to the posts of ETT Cadre as advertised on 30.07.2021 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1351-2023

11. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment

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to the posts of Master Cadre as advertised on 28.02.2020 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1355-2023

12. The appellant herein pray for a mandamus being made upon the respondent concerned to consider her case for appointment to the posts of Master Cadre as advertised on 16.12.2021 and public notice dated 08.01.2022 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the public notice (supra).

LPA-1369-2023

13. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment to the posts of Master Cadre as advertised on 28.02.2020 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1398-2023

14. The appellant herein pray for a mandamus being made upon the respondent concerned to consider his case for appointment to the posts of ETT Cadre as advertised on 30.07.2021 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1460-2023

15. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment

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to the posts of ETT Cadre, as advertised on 06.03.2020 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1563-2023

16. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment to the posts of ETT Cadre, as advertised on 12.10.2022 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 (i) of the advertisement (supra).

LPA-1575-2023

17. The appellant herein pray for a mandamus being made upon the respondent concerned to consider his case for appointment to the posts of Master Cadre, as advertised on 16.12.2021 and public notice dated 08.01.2022 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the public notice (supra).

LPA-1627-2023

18. The appellant herein pray for a mandamus being made upon the respondent concerned to consider his case for appointment to the posts of ETT Teachers, as advertised on 30.07.2021 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5(i) of the public notice (supra).

LPA-1446-2023

19. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment

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to the posts of Master Cadre, as advertised on 28.02.2020 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1461-2023

20. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment to the posts of Master Cadre, as advertised on 28.02.2020 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1731-2023

21. The appellant herein pray for a mandamus being made upon the respondent concerned to consider her case for appointment to the post of ETT Teacher, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules.

LPA-1844-2023

22. The appellant herein pray for a mandamus being made upon the respondent concerned to consider his case for appointment to the posts of ETT Cadre, as advertised on 30.07.2021 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1846-2023

23. The appellant herein pray for a mandamus being made upon the respondent concerned to consider his case for appointment to the posts of ETT teachers, as advertised on 30.07.2021 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules.

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LPA-1812-2023

24. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment to the posts of ETT Cadre, as advertised on 30.07.2021 by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1813-2023

25. The appellant herein pray for a mandamus being made upon the respondent concerned to consider her case for appointment to the posts of ETT Cadre, as advertised on 30.07.2021, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-458-2024

26. The appellant herein pray for a mandamus being made upon the respondent concerned to consider her case for appointment to the posts of ETT Cadre, as advertised on 06.03.2020, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-1964-2023

27. The appellant herein pray for a mandamus being made upon the respondent concerned to consider his case for appointment to the posts of ETT Teachers, as advertised on 30.07.2021, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5(i) of the advertisement (supra).

LPA-1858-2023

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28. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment to the posts of ETT Teachers, as advertised on 30.07.2021, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5(i) of the advertisement (supra).

LPA-1904-2023

29. The appellant herein pray for a mandamus being made upon the respondent concerned to consider her case for appointment to the post of ETT Teachers, as advertised on 30.07.2021, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5(i) of the advertisement (supra).

LPA-345-2024

30. The appellant herein pray for a mandamus being made upon the respondent concerned to consider her case for appointment to the post of ETT Teacher, as advertised on 06.03.2020, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5(i) of the advertisement (supra).

LPA-1442-2024

31. The appellants herein pray for a mandamus being made upon the respondent concerned to consider their case for appointment to the post of ETT Teacher, as advertised on 06.03.2020, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules, and, for quashing of clause 5 of the advertisement (supra).

LPA-546-2024

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32. The appellant herein prays for a mandamus being made upon the respondent concerned to consider her case for appointment to the post of ETT Teacher, as advertised on 06.03.2020, by granting the age relaxation in the upper age limit under Rule 19 of the 1994 Rules.

Relevant contents of the reply/affidavit of Harpreet Singh, Assistant Director, Education Recruitment Directorate, Department of School Education, Punjab.

33. The list of LPAs concerned with different advertisements is extracted hereinafter.

Sr. No.	Category	Court Case	Year	Name of the Appellant	CWP No.	Subject Matter
1.	LPA	1224	2023	Mandeep Kaur	CWP No.5400 of 2021	3704 Master Cadre (Overage Matter)
2.	LPA	1249	2023	Rupinderpal Kaur	CWP No. 9443 of 2021	2392 Master Cadre (Overage Matter)
3.	LPA	1234	2023	Inderjeet Kaur	CWP No. 23838 of 2022	4161 Master Cadre (Overage Matter)
4.	LPA	1233	2023	Sukhpal Singh	CWP No. 21070 of 2022	4161 Master Cadre (Overage Matter)
5.	LPA	1232	2023	Neetu	CWP No. 17827 of 2022	4161 Master Cadre (Overage Matter)
6.	LPA	1355	2023	Amandeep Kaur	CWP No. 3977 of 2022	4161 Master Cadre (Overage Matter)
7.	LPA	1575	2023	Satnam Singh	CWP No. 4035 of 2022	4161 Master Cadre (Overage Matter)
8.	LPA	1563	2023	Jasvir Kaur	CWP No. 27353 of 2022	5994 ETT (Overage Matter)
9.	LPA	1248	2023	Kulwinder Singh	CWP No. 25527 of 2022	5994 ETT (Overage Matter)
10.	LPA	1351	2023	Paramjeet Kaur	CWP No. 3578 of 2021	3704 Master Cadre (Overage Matter)
11.	LPA	1369	2023	Kulvinder Kaur	CWP No. 6938 of 2020	3704 Master Cadre (Overage Matter)
12.	LPA	1413	2023	Jyotsana Bhaskar	CWP No. 14634 of 2012	7654 Master Cadre (Experience Challenge)

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13.	LPA	1446	2023	Ashok Kumar Jaggi	CWP No. 7645 of 2020	3704 Master Cadre (Overage matter)
14.	LPA	1461	2023	Nikita Rani	CWP No. 7190 of 2020	3704 Master Cadre (overage Matter)
15.	LPA	1460	2023	Jatinder Kumar	CWP No. 7500 of 2020	2364 ETT (Overage Matter)
16.	LPA	1297	2023	Devinder Rani	CWP No. 15241 of 2022	6635 ETT (Overage Matter)
17.	LPA	1226	2023	Amita	CWP No. 15757 of 2021	6635 ETT (Overage matter)
18.	LPA	1627	2023	Raj Kumar	CWP No. 15363 of 2021	6635 ETT (overage Matter)
19	LPA	1398	2023	Rajesh Pal	CWP No. 15744 of 2021	6635 ETT (Overage Matter)
20.	LPA	1731	2023	Gurpreet kaur	CWP No. 20290 of 2022	6635 ETT (Overage matter)
21.	LPA	1844	2023	Munish Pabbi	CWP No. 15744 of 2021	6635 ETT (Overage matter)
22.	LPA	1846	2023	Darbara Singh	CWP No. 15823 of 2021	6635 ETT (Overage matter)
23.	LPA	1812	2023	Monika Rani	CWP No. 15744 of 2021	6635 ETT (Overage matter)
24.	LPA	1813	2023	Reeta Rani	CWP No. 15824 of 2021	6635 ETT (Overage matter)
25.	LPA	1964	2023	Jatinder Singh	CWP No. 15363 of 2021	6635 ETT (Overage matter)
26.	LPA	1858	2023	Baljeet Kaur	CWP No. 15363 of 2021	6635 ETT (Overage matter)
27.	LPA	1904	2023	Gurmeet Kaur	CWP No. 17300 of 2021	6635 ETT (Overage matter)
28.	LPA	458	2023	Mamta Rani	CWP No. 7223 of 2020	2364 ETT (Overage matter)

The detail of appellants for the above mentioned advertised posts is as under :-

(i) For the 4161 posts of Master Cadre advertised on 08.01.2022.

LPA No.	Reg. No.	Subject	Name	Father Name	DOB	Category	Marks	Status
1575 of 2023	xxx	Social Studies	Satnam Singh	Darshan Singh	20.12.82	EWS (General)	103	In the Selection Zone
	--do--					General	103	

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1460 of 2023	x		Jatinder Kumar					The result of 2364 ETT Posts recruitment is not finalized.
458 of 2024			Mamta Rani					--do--

(iv) For the 5994 posts of ETT cadre advertised on 12.10.2022 :-

LPA No.	Reg. No.	Subject	Name	Father Name	DOB	Category	Marks	Status
1248 of 2023			Kulwinder Singh					The result can only be finalized after compliance of order passed in CWP No. 6819 of 2023
1563 of 2023			Jasvir Kaur					--do--

(v) For the 7564 posts of various cadre advertised on 23.09.2009:-

LPA No.	Reg. No.	Subject	Name	Father Name	DOB	Category	Marks	Status
1413 of 2023			Jyotsana Bhaskar					This case is concerned with the consideration of Experience Certificate.

(vi) For the 2392 Mastre Cadre posts :-

LPA No.	Reg. No.	Subject	Name	Father Name	DOB	Category	Marks	Status
1249 of 2023		English	Rupinder Pal Kaur	Ajmer Singh	29.05.83	General	133	Lower in Merit (not fall in selection zone).

(vii) For the 6635 posts of ETT Cadre advertised on 30.07.2021 :-

LPA No.	Reg. No.	Subject	Name	Father Name	DOB	Category	Marks	Status
1812 of 2023		ETT	Kewal Kalra	Mohinder Kalra	20.04.83	General	71	In selection zone.
1846 of 2023		ETT	Darbara Singh	Jethu Singh	12.03.80	General	70	In selection zone.
		ETT	Darbara Singh	Jethu Singh	12.03.80	EWS for General	70	In selection zone
1813 of 2023		ETT	Reeta Rani	Ashok Kumar	18.01.83	General	67	In selection zone
1226 of 2023		ETT	Amita	Suraj Mani	07.11.83	General	63	In selection zone
1731 of 2023		ETT	Gurpreet Kaur	Ram Singh	05.02.76	BC	62	In selection zone
1812 of 2023		ETT	Monika Rani	Gagan Kumar	08.08.83	EWS for General	59	In selection zone
1904 of 2023		ETT	Gurmeet Kaur	Tarsem Singh	06.02.83	Ex Serviceman (General)	55	In selection zone

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1964 of 2023		ETT	Jatinder Singh	Sawinder Singh	21.03.83	Ex Serviceman (General)	54	In selection zone
1297 of 2023		ETT	Devinder Rani	Jagdish Raj	25.02.80	Ex Serviceman (General)	53	In selection zone
		ETT	Paramjit Kaur	Kaur Singh	07.08.78	Ex Serviceman (General)	47	In selection zone
1398 of 2023		ETT	Rajesh pal	Om Parkash	24.03.80	General	63	In selection zone
1844 of 2023		ETT	Munish Pabbi	Som Nath Pabbi	11.11.82	General	63	In selection zone
1627 of 2023		ETT	Raj Kumar	Gian Chand	04.01.79	EWS (General)	61	In selection zone
		ETT	Raj Kumar	Gian Chand	04.01.79	General	61	In selection zone.

Facts relevant for deciding the instant LPAs.

34. The appellants who belong to general/reserve category are uncontrovertedly in possession of the requisite educational qualifications, as laid down in the respective advertisement(s) and also they qualified the Punjab State Teachers Eligibility Test.

35. It has been laid down in the guidelines issued by the National Council for Teachers' Education (NCTE) that the appropriate Government shall conduct Teacher Eligibility Test at least once every year. The State of Punjab has not conducted the TET examination in 2017, when the appellants were eligible within the age limit for the posts and had only conducted the Punjab State Teacher Eligibility Test-2017, in the year 2018. Despite the appellants qualifying the said test, they still cannot be considered for appointment to the respective posts on account of theirs crossing the upper age limit of 37 years (42 years in case of SC/BC). The appellants also submitted representation to the respondent concerned to increase the upper age limit from 37 years to 42 years for the advertised posts. However, the same has fixed between 18 to 37 years.

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**Common submissions of the learned Counsel for the appellants.**

36. The learned counsels appearing on behalf of the appellants submit that the appellants despite possessing the requisite educational qualifications, yet they have been untenably deprived of their right for being considered against the advertised posts, thus merely on account of theirs being overage.

37. The counsels conjointly submit that since the acquisition of educational qualifications by the aggrieved appellants was a dire necessity for making them eligible to participate in the recruitment drive, as became initiated for making selections to the posts (supra). Moreover, they also submit that since the acquisition of the requisite educational qualification(s), inasmuch as, their qualifying the TET-2017 examination in the year 2018, rather became obstructed or impeded on the premise, that the said examination which was to be conducted by the State in the year 2017, rather remained then not conducted by the respondent State. Therefore, it is argued with vigor before this Court that thereby the provision [Rule 19 (supra)] relating to assigning of benefit qua relaxation in upper age, thus is required to be usefully employed vis-à-vis the present appellants.

38. The learned Single Judge has ignored the major fact that when the matter was earlier listed, then the Hon'ble Court had considered the factum (supra) and as such, had permitted the writ petitioners/appellants, to participate provisionally in the examination, but with a direction to the respondent to not declare the results till

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further orders of the Court. The contents of the said order become extracted hereinafter.

“It is the contention of the learned counsel for the petitioners that with regard to the relaxation in age in exercise of the powers conferred under Rule 19 of the Punjab Civil Services (General and Common Conditions of Service) Rules, 1994, is pending consideration with the Government/Competent Authority, which decision is likely to be taken soon. He, therefore, submits that the petitioners will loose an opportunity of participation in the recruitment process as the last date of receipt of the applications is 18.03.2020.

Let three copies of the writ petition be handed over to Mr. Mehardeep Singh, Addl. A.G., Punjab, during the course of the day under proper receipt and signatures, who shall seek instructions with reference to the assertions of the petitioners with regard to the relaxation in the age.

List on 21.04.2020 for consideration.

In the meanwhile, application forms of the petitioners in the form of hard copy shall be accepted by the Director, Education Recruitment Board-cum-Director General School Education, Punjab – respondent No.3 today/tomorrow on submission by the petitioners. The result of the petitioners would not be declared till further orders of this Court...”

39. The advertised posts are governed by the Punjab Educational (Teaching Cadre) Border Area Group C Service Rules, 2018 (hereinafter for short called as the 2018 Rules) which further provides under Rule 10 thereof, qua in respect of those matters, which are not specifically provided for in these rules, thereupon, the members of the Service shall be governed by the apposite provisions embodied in

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the 1994 Rules. Resultantly, therebys since the 2018 Rules, do not contain any provision with regard to the age limit for recruitment to the post/service, therefore by virtue of Rule 10 of the 2018 Rules, thus appertaining qua determination of the apposite eligible age, for participation in the recruitment process, rather the 1994 Rules do hold the field. The relevant Rules 5, 5A and 19 of the 1994 Rules are extracted hereinafter.

“5. Age :- (1) No person shall be recruited to the Service by direct appointment, if he is less than eighteen years or is more than thirty seven years of age in the case of technical and non technical posts on 1st day of January of the year immediately preceding the last date fixed for submission of application by the Commission or the Board, as the case may be:

Provided that where different lower and upper age limits have been specifically prescribed for posts in the Service Rules, these limits shall be made applicable for appointment to such posts;

Provided further that the upper age limit may be relaxed up to forty five years in the case of persons already in the employment of the Punjab Government, other State Government or the Government of India:

Provided further that in the case of candidates belonging to Scheduled Castes and other Backward Classes, the upper age limit shall be such as may be fixed by the Government from time to time.

(2) In the case of ex-servicemen, the upper age limit shall be such as has been prescribed in the Punjab Recruitment of Ex-servicemen Rules, 1982, as amended from time to time.

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(3) In the case of appointment on compassionate grounds on priority basis, the upper age limit shall be such as may be specifically fixed by the Government from time to time.

(4) In the case of appointment of a War Hero, who has been discharged from defence services or para-military forces on account of disability suffered by him or his widow or dependent member of his family, the upper age limit shall be such as may be specifically fixed by the Government from time to time.

5A. Increase in upper age limit:- *Notwithstanding anything contained in rule 5, on and with effect from the commencement of the Punjab Civil Services (General and Common Conditions of Service) Amendment Rules, 2010, where in any other Service Rules, or in Government instructions, the upper age limit for appointment to any Service or for any category of persons is different from thirty five years, it shall be deemed to have been increased by two years.”*

“19. Power to relax:- *Where the Government is of the opinion that it is necessary or expedient to do, it may by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons: Provided that the provisions relating to educational qualification and experience, if any, shall not be relaxed.”*

40. Though the age relaxation is not a matter of right but in the instant case since there is a fault on the part of the Government in not conducting the PSTET in time, therefore this Court may direct the State Government to give relaxation in view of the above extracted Rule 19 of 'the 1994 Rules'.

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**Submission of the learned State counsel**

41. The learned State counsel has vociferously submitted before this Court, that the espousal qua the useful employment of Rule 19 (supra), vis-à-vis the appellants, rather cannot be claimed as an indefeasible right by the appellants, as the employments thereof vis-à-vis the appellants, but is a matter of policy. Therefore, vis-a-vis the controversies falling within the domain of the State policy, as is the present one, thus the High Court rather cannot exercise its review jurisdiction, as vested in it through Article 226/227 of the Constitution of India.

Reasons for rejecting the submissions of the learned State counsel.

42. For the reasons to be assigned hereinafter, this Court is of the formidable view that the instant case, is the one, where the power of relaxation, as contemplated in Rule (supra), has been untenably denied to the appellants, on the mis-premise that the employment of the said Rule vis-à-vis the appellants, is quartered within the exclusive domain of the apposite State policy and as such this Court cannot pass a mandamus.

43. Initially the reason for making the above conclusion becomes aroused from the power of this Court, to interpret the Rules (supra), thereby there is but investment of jurisdictional competence in the Writ Court. Resultantly thereby, this Court is required to be rather than treating the said Rule to be quartered in a policy domain, contrarily is required to be making an interpretation thereof. Reiteratedly, the power of making interpretation of the said Rules, thus falls exclusively

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decimation or canalization of the discretion vested in the Executive besides may curb mis-application(s) or mis-employment(s), besides may curb emergencies of any arbitrariness or may restrain the respondent from practicing invidious discrimination against the appellants herein. Therefore, after concluding that an interpretation qua the said Rules, thus can be made by this Court, hence in the exercise of writ jurisdiction. Resultantly, the learned Single Judge rather was not required to ill assume, that since the Rules (supra) became quartered in a policy domain, thereby the writ Court has no jurisdiction to tinker with the said policy or to apply it favourably vis-a-vis the appellants.

44. **Furthermore, this Court is led to make the hereafter inferences.**

a) That the Rule (supra) enshrines an empowerment in the Executive to as and when it is necessary or expedient to do so, but for well informed reasons, to be recorded in writing, rather relax any of the provisions of the Rules qua any class or category. However, the proviso thereto speaks that the provisions relating to the educational qualifications and experience, if any, are unamenable for becoming relaxed.

b) Even though the said discretion is vested in the Executive besides the said conferred discretion is permissible to become exercised in respect of any class or category of persons. Since obviously the said made endowment, is thus with the widest amplitude but also necessarily is covering all classes or categories of persons.

Resultantly therefroms an inference becomes aroused qua though Rule

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5 and 5A of the 1994 Rules, Rules whereof are extracted above, thus contemplate that the age relaxation is limited only to in service candidates, but yet when the power of relaxation (supra) also covers, but on the requisite circumstances being made out, rather all classes or category of persons, including those who appear as direct recruits in the screening test. Consequently, thereby the fetter or the limit created in Rule 5, 5A of the 1994 Rules, but becomes overcome, thus in the said exercising of the rule discretion to confer relaxations. However, yet the said discretion has to become exercised but only where it is necessary or expedient to do so. As such, the coinages “*where the Government is of the opinion that it is necessary or expedient to do*”, do require that for well employments thereof but emergent circumstances are required to be making their evident appearance(s), thus for therebys the rule discretion to confer relaxation(s) in the upper age limit, becoming well endowed to the claimant concerned.

c) Therefore, it has to be fathomed from the circumstances existing on the record whether therebys the power of relaxation as conferred upon the executive thus to endow relaxation(s) in upper age limit, to the applicants, thus was amenable to become favourably exercised by the State.

d) The foundational facts, for the same being construed to be necessarily boosting the workability of Rule 19 of the 1994, for therebys conferring relaxations in upper age, are, in-so-far as appertaining to the instant case, thus hereunder :-

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i) The educational qualifications are required to be peremptorily possessed by the applicants, thereby the said imperative condition is un-relaxable. The un-relaxability of the said condition is also stated in the proviso underneath the said Rule. Consequently, the appellants were required to be imperatively possessing the educational qualifications concerned, but only when the TET examinations, which were to be conducted by the State, thus became conducted in the year 2017, especially when at the stage whereof, the appellants did also possess the age qualifications, whereby they then did not require any relaxation in that regard, becoming granted in terms of Rule 19 of the 1994 Rules. Therefore, when the non conducting of TET examination in the year 2017, when barred the appellants to acquire the peremptory educational qualifications, in respect whereof, there is no power of relaxation vested in the executive, besides if the said examination was conducted in the relevant year, thereupon, when then the appellants were not required to be asking for the age relaxation. Resultantly, it is but the said non conducting of the examination concerned, which becomes the bedrock for the Government, in its taking to form an opinion, that the same, in terms of the Rule (supra), is a necessary factor or an expedient parameter, rather for forming a further opinion, that thereby the

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power of age relaxation vested in the executive, becoming amenable for becoming extended to the appellants, despite the fact that the appellants are not service candidates, especially when the plenitude of the power of relaxation, but also extends to any class or category of persons, whereby direct recruits thus also become endowed with the latitude to claim the apposite age relaxation.

ii) Therefore, despite the facts and circumstances (*supra*), whereby the Government may have been but led to form an opinion, that as such it is necessary or expedient to grant the age relaxation, whereas, its omitting to grant the age relaxation despite representations in the above regard being made, thereby the respondent has *prima facie* fallaciously and erringly failed to well employ the said Rule vis-a-vis the appellants.

iii) Moreover, when this Court had permitted to the appellants concerned, rather appear provisionally, through passing an **interim order (*supra*) dated 17.03.2020 passed in CWP-6938-2020**, but with a restraint on the respondents to not declare the results till the making of a decision upon the apposite writ petition. Since the said order remains unchallenged, thereby the said order acquires clinching and binding effect, whereby the respondents become forestalled to canvass, that in terms of the Rule (*supra*), the appellants are not entitled to age

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relaxation nor thereby the learned Single Judge, could either overlook or minimize the significance of the said order, nor could he say that the above power of relaxation, is squarely quartered within the domain of the executive nor could he proceed to deny the benefit thereof to the appellants.

iv) Paramountly also, when it is yet not known whether the appellants have scored a notch in the merit list, whereby alone they can claim a right to be selected and thereafter may claim a right for being appointed to the respectively advertised posts. If so, the merit of the appellants, which may emanate after the release of the results of the recruitment examination(s) in which they provisionally participated. Moreover, when on release of the results of the recruitment examination, thus provisionally undertaken by the appellants, rather evidence personificatory, that they have acquired a selectable notch in the merit list, thus may surge forth. Consequently, their otherwise merit but would become untenably undermined, only on non purveying to them of the benefit of the Rule (supra). Therefore, to obviate the emergence of the above ill consequences, that the respondent is but required to, dependent upon the candidates existing at the relevant selectable notch in the merit list, but prior to the issuance of the appointment letters to them, thus make in terms of

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the above interpretation assigned to the Rule (supra), thus a speaking decision over the apposite representation, so that therebys, qua the meritorious candidates or to the selected candidates, thus appointment letters can become issued.

Final Order of this Court.

45. In aftermath, this Court after finding merit in the appeals (supra) deems it fit and appropriate to interfere with the impugned order, as passed by the learned Single Judge.
46. The appeals are allowed. The impugned order is quashed and set aside. The respondent concerned is directed to in terms of the above interpretation made by this Court, decide within a period of two weeks from today, thus the representation(s)/claims of the appellants, relating to their amenability qua assigning qua them the relaxation in the upper age, thus in terms of Rule 19 of the 1994 Rules, and, to within a week thereafter, after completion of all codal formalities, but only if the names of the present appellants occur in the merit list/selection zone, to issue them appointment letters.
47. Since the main case(s) itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

26.07.2024
kavneet singh

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