

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

221

CWP-19260-2016
Date of Decision:26.02.2024.

Gurwinder Singh
... Petitioner

Versus

State of Punjab and another
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Gurbhajneek Singh Samra, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY J.

1. The present Civil Writ Petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the notice dated 22.08.2016 (Annexure P-4), vide which the result of the petitioner has been withheld without disclosing any reasons.
2. Learned counsel submits that petitioner had applied for appointment to the post of ETT pursuant to the public notice/advertisement dated 09.11.2015, Anneuxre P-1. Neither in it nor in the Rules, any minimum percentage to have been obtained in the basic educational qualification of 10+2 was specified. The petitioner had got admission in the elementary teacher training course of two years in an institute in Jammu and Kashmir, wherein the minimum percentage of marks required was 40% in 10+2, while he had scored 42%. The respondents have accepted the said training course to be valid for the purpose of appointment, but the objection was raised only of him having less than the required 45% in terms of the

NCTE guidelines/regulation dated 29.07.2011, Annexure R-2. However, the clause of granting relaxation upto 5% in qualifying marks to the candidates of the reserved categories i.e. SC/ST/OBC/PH has not been taken into consideration, the petitioner being entitled thereto, belonging to the SC category. This fact has been admitted in in para -7 of the written statement dated 21.04.2017 filed by way of an affidavit by Kulwinder Kaur, Assistant Director, Education Recruitment Directorate Department of School Education, Punjab, the relevant portion whereof reads thus:-

“That it is respectfully submitted that the petitioner applied for these posts in Scheduled Caste (R&O) category and was allotted registration No. 10122. The petitioner being a Scheduled Caste (R&O) category was entitled for 5% relaxation in qualifying marks.”

3. Evidently, in CWP-30466-2019 titled as **Reena Devi vs. State of Punjab and others**, decided on 13.12.2022, wherein the petitioner, a General Category candidate, was not being considered for appointment to the same post, as involved in the present case, on account of the fact that she had also obtained less percentage in 10+2 examination, the Coordinate Bench of this Court had relied on the NCTE Notification dated 29.07.2011 which indicated that the marks should be 45% with two years Diploma. During pendency of that writ petition, on a direction of the Court on 29.07.2022, to consider her case, the respondent-State had granted the appointment vide order dated 13.12.2022, rendering the case as infructuous.

4. In view of the admitted stand of the respondent-State as reflected hereinabove, viz. the entitlement of the petitioner to relaxation of 5% in terms of NCTE Notification, in the percentage of marks obtained in 10+2, which was the only impediment in granting appointment to him, the

respondents are directed to consider and appoint him against the post of ETT teacher in category of Scheduled Caste category (R&O), which was ordered to be kept in abeyance by this Court on 20.09.2016, within a period of four weeks from the date when a web-print of this judgment is received. The petitioner shall be entitled to only notional benefits.

5. The present petition stands allowed, accordingly.

(AMAN CHAUDHARY)
JUDGE

26.02.2024

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