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HARSIMRAN SINGH SETHI J. (ORAL)

CM-10170-CWP-2024 in CWP-19391-2017

As prayed for, the application is allowed.

Annexure P-14 is taken on record.

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1. By this common order, eight writ petitions, the details of which have been given in the heading, are being disposed of as all these petitions involve the same question of law on similar facts.
2. In the present bunch of petitions, the grievance being raised by the petitioners is that they are competing for the post of ETT as advertised by the respondents vide Advertisement dated 09.11.2015 (Annexure P-5) and vide Advertisement dated 30.07.2016/08.08.2016 but they are being treated ineligible for the post in question on the ground that the Diploma in primary education, which is an essential qualification, has been obtained from Indira Gandhi National Open University (IGNOU), which Diploma is not being treated as valid qualification so as to consider the petitioners eligible for appointment to the post of ETT Teachers.
3. At the outset, learned counsel for the petitioners submits that the petitioners are being discriminated as, the same qualification obtained by the candidates has been treated as a valid qualification so as to consider them eligible for the ETT posts advertised on 30.07.2016 hence, once the candidates having the same qualification as the petitioners, are being treated eligible, declining the said benefit to the petitioners, is arbitrary and illegal.

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4. On the last date of hearing, the following order was passed:-

“ Learned counsel for the respondents seeks a short adjournment to file an affidavit as to whether any candidate having similar qualification as the petitioners has been appointed on the post in question or not. If yes, the reasons for considering the said candidate despite the fact that the petitioners are being denied the benefit of selection raising a ground of being ineligible for the post in question.

Adjourned to 19.07.2024.

A photocopy of this order be placed on the file of other connected cases.”

5. In compliance of the order dated 16.07.2024, the respondents have filed an affidavit dated 19.07.2024 of the Assistant Director, Education Recruitment Directorate, Department of School Education, Punjab. In the affidavit, it has been mentioned that the same question of law came up for consideration before the Division Bench of this Court in **LPA No.1167 of 2018 titled as Tara Rani vs. State of Punjab and others, decided on 21.07.2023** and the Division Bench vide order dated 21.07.2023 held the candidates having Diploma in Primary Education from the Indira Gandhi National Open University be treated as eligible to compete for the post of ETT and under the orders of this Court, all such candidates have been treated eligible and some of them who were in merit, have also been appointed.

6. As per the affidavit, the said order of the Division Bench will only be applicable qua the appellant in LPA No.1167 of 2018 and not qua the other similarly situated candidates, who have the same qualification.

The relevant portion of the affidavit is as under:-

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“ 3. That through the present writ petitions, the petitioners have inter-alia prayed for challenging the action of the respondents in not selecting and appointing for the post of Elementary Trained Teacher (ETT) advertised on 09.11.2015 (4500 posts) and 30.07.2016 (2005 posts) as 2 years Diploma in Primary Education passed by the petitioners from Indira Gandhi National Open University was not recognized by NCTE (Already annexed as Annexure R-3).

4. That in similar L.P.A no.1167 of 2018 in CWP no. 51 of 2017 titled as Tara Rani and others Versus State of Punjab and others, Hon’ble Court vide order dated 21.07.2023 was pleased to pass the following order:-

“11. In view of the aforesaid facts and circumstances, judgments passed by the Ld. Single Judge dated 27.04.2017 and 27.01.2020 are set aside. Consequently, all three Letters Patent Appeals are allowed. Respondent-State is directed to consider the candidature of the appellants herein for the post of ETT Teacher and offer appointment letter to them, in case they are found meritorious and otherwise eligible, within a period of two months from the date of receipt of certified copy of this order. Needless to say, if appointed, appellants herein will be entitled to all notional benefits.”

It is pertinent to mention here that the above order is applicable qua the appellants only. The copy of the above order dated 21.07.2023 is annexed as Annexure R-4.

5. That it is respectfully submitted that in compliance of above order dated 21.07.2023, candidates possessing 2 years Diploma in Primary Education from Indira Gandhi National Open University have been considered ‘Eligible’ for the 6635 posts of ETT advertised on 30.07.2021.

6. That it is further clarified that the appointment letters issued to the candidates possessing 2 years Diploma in Primary Education from Indira Gandhi National Open University for the recruitment of 6635 ETT posts was as per decision dated



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15.11.2023 taken by the Departmental Officer's Committee presided over by Secretary to Government of Punjab, Department of School Education. The orders of the Hon'ble Court were complied for the 6635 pots as recruitment was still under process. However, the selection process for the 4500 and 2005 ETT posts was over and appointment letters were issued to the selected candidates."

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

8. The Rules governing the service for appointment to the post of ETT remains the same qua the advertisement dated 09.11.2015 (Annexure P-5) as well as qua the advertisement dated 30.07.2016/08.08.2016. Once, qua the Advertisement dated 30.07.2016/08.08.2016 for appointment to the post of ETT, the Diploma in Primary Education from Indira Gandhi National Open University has been treated to be valid qualification keeping in view order passed by the Division Bench of this Court in LPA No.1167 of 2018 and such candidates, who were in merit, have already been appointed to the post of ETT, ignoring the petitioners possessing same qualification, is arbitrary and illegal and amounts to discrimination. The stand of the respondents that the order passed by the Division Bench of this Court in LPA No.1167 of 2018 holding the candidates having Diploma in Primary Education from Indira Gandhi National Open University as eligible, was only limited to the appellant therein, is also arbitrary and illegal.

9. As per the settled principle of law settled by the Division Bench in ***CWP No. 4382 of 2002 titled as Satbir Singh Vs. State of Haryana decided on 21.03.2002***, if a question of law has been settled by a

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competent Court of law, the benefit of the same has to be given to everyone rather than forcing everyone to come to the Court to seek the same relief.

The relevant portion of the judgment is as under:-

*“11. State has pervasive obligations to discharge in relation to maintaining its expected standards of employer employee relationship. As already noticed, one of the important facets of such obligations is to be reasonable and fair in granting service benefit to its employees in accordance with service rules and the principles enunciated on pronouncement of judgments by the Courts. When judgments attain finality to which the State is a party, duty is casted upon the State to grant relief to its employees who are similarly situated and on identical facts. Benefit of such approach are many and it causes no disadvantage to the interests of the State. It is not necessary for the State to require each one of its employees to approach the Courts of law for grant of a relief which the State ought to grant to the employees in normal course of its administration, particularly, the cases of the kind afore-referred. Such principles is well known and accepted for years now. By referring to few judgments we would only predicate the principle with greater emphasis of its application in the day-to-day affairs of the State. In the case of **Dr.(Mrs.) Santosh Kumari v. Union of India and others, JT 1994(7) SC 565: 1995 (1) SCT 527 (SC)** the Hon'ble Apex Court held as under:-*

“The allotment of seats should go according to merit. It does not depend upon who comes to Court and who does not. The matter is one of principle and should not depend upon who comes to the Court. A more deserving candidate may not have the means of approach the Court.”

10. It has gone un-rebutted that the petitioners are the similarly situated candidates as the appellant in LPA No.1167 of 2018. That being so,

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keeping in view the fact that the Rules governing the service providing the essential qualification qua the Advertisement dated 09.11.2015 (Annexure P-5) as well as qua the Advertisement dated 30.07.2016/08.08.2016 remains the same and the candidates having similar qualification as the petitioners have already been appointed qua the Advertisement dated 30.07.2016/08.08.2016, denying the said benefit to the petitioners is arbitrary and illegal and discriminatory.

11. Keeping in view the above, the petitioners are also held eligible to compete for the post of ETT as advertised on 09.11.2015/ 30.07.2016/ 08.08.2016 and their claim be considered on the same footing as being done in the case of appellant in LPA No.1167 of 2018.

12. The present writ petitions are allowed in above terms.

13. Any civil miscellaneous application pending if any, also stands disposed of.

14. A photocopy of this order be placed on the file of other connected cases.

July 19, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes