



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Sr. No.258

CWP-19438-2021 (O&M)
Date of Decision: 05.09.2024

Amandeep Singh

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Harish Rathi, Sr. DAG, Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed seeking a writ of *mandamus* directing respondent no.3/Haryana Staff Selection Commission (hereinafter referred to as 'the Commission') to consider the petitioner for the post of Post Graduate Teacher (PGT) Punjabi, against advertisement 4 of 2015, dated 28.06.2015, category no.15, in terms of notice dated 14.09.2021, Annexure P-14, by considering him eligible on the basis of Haryana Teachers Eligibility Test (HTET) certificate acquired before the interview.

2. Facts of the case in brief are:

2.1. The Commission invited applications for the posts of PGT in different subjects, including 179 posts of PGT Punjabi, vide the advertisement mentioned above. The requisite qualifications for the posts were as follows:

**Eligibility:-**

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.

Note- The candidates those who are having/passed HTET till the date of interview after advertisement will be allowed for interview on the basis of acquiring HTET (Test) till the date of interview.

(c) and (d) xxxx xxxx

2.2. The petitioner possessed the requisite qualifications, except HTET certificate in Punjabi. Since as per stipulation in the advertisement, the candidates were required to clear HTET till the date of interview, he applied for the post of PGT Punjabi as a BCA category candidate. He was issued roll number 31500856 for the written examination held on 03.03.2016. After clearing the same, he was shortlisted for interview vide notice dated 23.10.2016; the date of interview was 17.11.2016. The schedule was, however, cancelled, and vide notice dated 30.11.2016, Annexure P-5, candidates equal to four times the number of advertised vacancies were called for scrutiny of documents, to ascertain eligible candidates twice the number of vacancies for interview, to be held on 06.12.2016.

2.3. The petitioner appeared for scrutiny of documents but was not found eligible as he had not acquired HTET certificate by that time. Final result of selection was declared on 23.02.2017, Annexure P-7. As per the result, last selected candidate under BCA category secured 116 marks. In fact, the petitioner had appeared for HTET held on 18.06.2016, but could not qualify the same having secured 89 marks, against the qualifying marks of



90. The HTET result was later revised by the Board of School Education, and the petitioner cleared the same as per result dated 02.08.2017, Annexure P-10; a copy of the certificate to that effect is appended to the petition as Annexure P-11. However, by that time, as aforementioned, the final result of selection had already been declared on 23.02.2017, wherein the petitioner was not considered eligible for want of HTET certificate. He filed a writ petition, CWP No.21977 of 2017, seeking consideration for the post on the basis of HTET qualification, but the same was dismissed vide order dated 26.09.2017, Annexure P-13, since the selection process had already come to an end prior to the petitioner acquiring HTET certificate, dated 02.08.2017.

2.4. Later, the Commission issued a notice dated 14.09.2021, Annexure P-14, in continuation of its earlier notice dated 22.12.2016, again calling candidates for the post of PGT Punjabi (Rest of Haryana cadre) for interview/viva voce on 27.09.2021. The notice was issued in order to consider candidates against certain posts of General category, earlier belonging to Special Backward Class (SBC) category. As in terms of a Government notification, SBC category candidates were required to be treated under unreserved/General category. Certain candidates bearing roll numbers 31500442, 31500375, 31501097, 31501109 and 31500796, who were found ineligible during scrutiny of documents along with the petitioner, as is apparent from the detailed marks of candidates notified by the Commission, Annexure P-15, were also called for interview vide the aforementioned notice. After the interview on 27.09.2021, final result (remaining) for the post, dated 09.10.2021, Annexure P-21, was announced, and the candidates under General as well as BCA categories were selected. This included a candidate having roll number 31500796, who was earlier declared ineligible belonging to BCA category, and was now selected having



secured 116 marks. The last selected candidate in General category secured 125 marks. Further, the candidate having roll number 31501758, declared ineligible at the time of earlier selection result as a BCA category candidate, was also selected under General category.

2.5. In this factual background, the petitioner approached this Court by filing the instant petition, and was provisionally interviewed on 27.09.2021, in terms of interim directions issued by this Court vide order dated 24.09.2021. As per the petitioner's provisional result produced before this Court, he obtained 110 marks in written test and 17 marks in interview, which makes it 127 in total, as against the cut-off marks 116 under BCA category, and 125 under General category.

3. Learned counsel for the petitioner contends that the petitioner has a fresh cause of action to approach this Court since he became eligible after acquiring HTET certificate on 02.08.2017. At that time, the process of selection had not concluded, as the candidates had been called for interview again on 27.09.2021. In terms of stipulation in the advertisement, a candidate's eligibility on the basis of HTET qualification is to be seen at the time of interview only. The respondents have considered candidates who were earlier declared ineligible, by interviewing them on 27.09.2021; the petitioner is also entitled to be considered and appointed on that basis. Besides, he has secured more marks than those of the last selected candidate in BCA, as well as General category, and cannot be denied consideration. In support of the contentions, learned counsel has relied upon a judgment by this Court, dated 24.08.2021, rendered in CWP No.3629 of 2019 titled *Budh Ram v. State of Haryana and others*.

4. Learned State counsel, on the contrary, contends that the petitioner is not entitled to be considered at this stage when the entire



selection process is over, and final result has been declared on 23.02.2017. At the time of interview, he was not eligible as he acquired HTET certificate only subsequently on 02.08.2017. Once the selection process is complete, his candidature cannot be considered. He, however, is not in a position to dispute that the Commission issued a subsequent notice, dated 14.09.2021, calling more candidates for interview, including the ones who were declared ineligible in the earlier selection result, dated 23.02.2017, and the remaining selection result was declared on 09.10.2021, which included the candidates under BCA category as well.

5. Heard.

6. As per stipulation in the advertisement, the candidates were required to possess the requisite qualification of HTET at the time of interview. The petitioner participated in the selection process, cleared the written examination, but was not found eligible for the interview held on 06.12.2016, and could not be considered for selection; final result whereof was declared on 23.02.2017. Although he had appeared in HTET on 18.06.2016, i.e., prior to the date of interview, but was declared successful only after revision of result on 02.08.2017. It cannot be said that the selection process came to an end with the declaration of final result on 23.02.2017, as contended by learned State counsel, since the Commission, on its own, called more candidates for interview vide public notice, dated 14.09.2021, whereupon the interview was held on 27.09.2021, and the remaining final result was declared on 19.10.2021. It remains undisputed that the candidates belonging to General as well as BCA category, who were earlier declared ineligible, were considered and selected for the posts in question pursuant to public notice, dated 14.09.2021. The petitioner is similarly placed as the candidates who were later considered for selection



pursuant to this notice, and not considering him is discriminatory and arbitrary. Once the selection process was on and the candidates were being interviewed as late as on 27.09.2021, and by then the petitioner was fully eligible, he was also entitled to be so considered in terms of stipulation in the advertisement itself. Not doing so is patently illegal, and cannot be countenanced. Besides, the petitioner has secured more marks than those of the last selected candidate in both General as well as BCA category, to which he belongs. As per provisional selection result, he has secured 127 marks as against cut-off marks of 116 in BCA category, and 125 in General category. Therefore, he has a right to be selected and appointed on merit.

7. In similar circumstances, this Court in *Budh Ram* case (*supra*) has held as under:

It is further the case of the State that the petitioner was not qualified as such having not passed his HTET and only did so on 19.04.2018 and that is the reason he was avoiding the scrutiny process. It is not disputed that the petitioner as such has the other educational qualification and only the certificate as such of HTET has been acquired at a subsequent point of time on 19.04.2018.

Counsel for the petitioner is well justified to submit that as per the terms of the advertisement itself dated 28.06.2015 (Annexure P-1) the State had left it open that HTET passing could be after the last date but before till the date of interview. Relevant portion of the Advertisement reads as under:-

“Eligibility:-

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.

Note- The candidates those who are having/passed HTET till the date of interview after advertisement will be allowed for interview on the basis of acquiring HTET (Test) till the date of interview.”

In such circumstances, it is apparent that even if the petitioner has acquired his HTET qualification subsequent to the advertisement, it was as per the terms of the advertisement. Counsel has also pointed out from Annexure P-16 that the process of interview is still being carried on and even a last opportunity was granted by the State on 21.08.2016 (Annexure P-16), which was in compliance of various orders passed by this Court for various posts, which had been advertised. TGT (Physical Education) is also one of the categories for which the candidates had been given last opportunity for interview/viva voce on 30.08.2019, vide notice dated 21.08.2019 (Annexure P-16).

In such circumstances, this Court is of the opinion that the selection process was not completed and the matter was still open and the petitioner had already acquired his HTET qualification also most 1½ years earlier and by virtue of the interim order had appeared in the interview. It would, thus, be appropriate if he is granted the benefit by allowing the present writ petition.



Letters Patent Appeal against the judgment was dismissed by the Division Bench on 29.11.2023.

8. In view of the discussion, the petition is allowed. The respondents are directed to consider the petitioner for the post of PGT Punjabi on the basis of provisional result, and offer him appointment from the date other candidates pursuant to the advertisement in question have been appointed. He shall be entitled to all service benefits notionally from the date of appointment, and actually from the date of joining service. These directions are to be carried out within four weeks of receiving a certified copy of this judgment. There shall be no order as to costs.

9. Pending miscellaneous application(s), if any, stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

05.09.2024
Maninder

Whether speaking/reasoned : Yes
Whether reportable : Yes