



CWP-2566-2018

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

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CWP-2566-2018

Date of Decision: 28.11.2024

Sushil Kumar

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. R.S. Sangwan, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to consider the petitioner eligible and qualified for selection and appointment to the post of TGT Science, advertised vide advertisement 4/2014, dated 08.09.2014, as a Dependent of Ex-servicemen (DESM) category candidate.

2. Facts of the case in brief are, initially the respondents advertised 310 posts of TGT Science under various categories vide the aforementioned advertisement. In terms of Note-1 thereof, one time exemption of HTET/STET was granted to the candidates who had worked as teacher for a minimum period of four years till 11.04.2012 in privately managed Government aided schools, recognized schools or Government schools; they were required to qualify HTET not later than 01.04.2015, otherwise their appointment would stand terminated

automatically without notice. The petitioner had the requisite qualifications on the



basis of four years teaching experience, which exempted him from possessing HTET pass certificate and, therefore, applied for the post in question. The exemption was provided in the advertisement in line with service rules-the Haryana School Education (Group-C) State Cadre Service Rules, 2012.

2.1. However, the selection could not take place as this advertisement was withdrawn. The respondents thereafter issued another advertisement, 03/2015 dated 28.06.2015; the last date for submission of application forms pursuant thereto was 21.09.2015. It was stipulated in the advertisement that qualifications, eligibility conditions, age and other documents (except HTET) would be determined with reference to the closing date, 21.09.2015, provided that the candidates who had earlier applied in response to advertisement, 4/2014, would be exempted from payment of application fee. But they would have to apply afresh along with proof of having deposited the application fee.

3. Learned counsel for the petitioner contends that in terms of the stipulation the petitioner submitted his online application afresh with the proof of deposit of application fee earlier, but his candidature was rejected on account of being not eligible for want of valid HTET certificate. This was done ignoring the fact that he had applied in response to the earlier advertisement, and was entitled to exemption from clearing HTET in terms of the subsequent advertisement also. The exemption stood provided in the service Rules as well, and could not have been taken away vide fresh advertisement 03/2015. The second argument by the learned counsel is that non-granting of exemption from HTET is discriminatory since the respondents have provided such exemption for the post of PGT in different subjects up to 2022, and the applicants for the post of TGT, like the petitioner, could not have been treated differently.



4. Learned State counsel, on the contrary, contends that the exemption provided to the candidates in the service Rules as well as the advertisement was for a specific purpose. HTET had been introduced for the first time during those days when the first advertisement, 4/2014, was issued; therefore, the test could not have been cleared by the candidates by then. Before issuance of the subsequent advertisement, 03/2015, the test had already been conducted a number of times and this was the reason exemption from clearing HTET was not provided in the subsequent advertisement; accordingly, the respondents could not be faulted on that account. He further contends that as of now the selection pursuant to advertisement 03/2015 is already over, and the selected candidates have been given appointments also, still none of them has been impleaded as a party to the petition.

5. Heard.

6. It remains undisputed that the petitioner does not possess HTET certificate, which is an essential qualification for the post of TGT Science. His claim for eligibility is based on the exemption from clearing HTET granted to the candidates in advertisement 03/2015 provided they have the requisite four years' teaching experience before 11.04.2012. It also remains undisputed that the said advertisement was withdrawn, leading to the issuance of advertisement 03/2015, wherein the candidates who were applicants in response to the earlier advertisement were required to apply afresh and had been granted exemption only from payment of application fee; there was no exemption with regard to qualifications/eligibility conditions, age and other documents. Further, there was a clear stipulation that exemption from clearing the HTET would not be admissible to the candidates who had applied in response to the earlier advertisement, and they were required to clear the same up to the date of the interview. The petitioner

applied for the post being conscious of all these conditions, and would remain bound by the same. Merely because exemption from HTET was granted to the candidates when the advertisement for the post was initially issued, that in itself could not be a ground to claim exemption in the subsequent advertisement also, which explicitly stipulated otherwise. The second contention by learned counsel for the petitioner alleging discrimination *qua* candidates for other posts/ PGTs for which a different advertisement has been issued, is also not sustainable since the advertisement in question, 03/2015, has been issued exclusively for the posts of TGT on the basis of conditions mentioned therein which will determine the candidates' eligibility. Further, learned counsel could not refer to any such advertisement wherein the exemption stood granted up to 2022. Apparently, the argument has been raised without any factual basis and needs rejection on that ground alone.

7. Besides, selection pursuant to the advertisement has already taken place, and the selected candidates have been given appointment also; the fact could not be disputed by learned counsel by the petitioner. None of the selected candidates has been impleaded as a party to the petition; nor has it been established that any of the advertised posts is lying vacant. These facts and circumstances also render the petitioner's claim unsustainable.

8. In view of the discussion above, there is no merit in the petition and it stands dismissed.

(TRIBHUVAN DAHIYA)

JUDGE

28.11.2024

Payal/Maninder

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>