

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-1509-2019 (O&M)
in CWP-27624-2018
Date of Decision: 19.03.2024

*HARYANA STAFF SELECTION COMMISSION THROUGH ITS
SECRETARY*

.....Appellant

V/s.

MONIKA BALWARIA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
 HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Hitesh Pandit, Addl. A.G., Haryana.

 Mr. S.S. Brar, Advocate for the respondent No.1.

 Ms. Tejaswini, Advocate for the applicant
 (proposed Respondent No.4 to 9) in CM-2253-LPA-2022.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The present Appeal is preferred by the State of Haryana assailing the order dated 14.03.2019 passed by the learned Single Bench of this Court in CWP-27624-2018, whereby learned Single Bench has granted the benefit of exemption made vide notification dated 02.07.2012 to the respondent No.1 (Writ Petitioner in CWP-27624-2018) of qualifying only two out of four subjects of Science for the purpose for selection as a Science Teacher (TGT) and allowed the Writ Petition.

2. Learned State counsel has pointed out that learned Single Bench has taken into consideration the notification dated 02.07.2012 and granted exemption to the respondent No.1 erroneously and since the notification dated 02.07.2012 amended the Haryana State Education School Cadre, (Group B) Service Rules, 2012 (hereinafter referred to as “Group-B Rules”)

and the said Rules were only in relation to the PGT Teachers and not for the TGT Teachers. It is submitted that the one-time exemption is granted by introducing a transitional provision under Rule 19A of the said Rules, was only with respect to the exemption of having passed three relevant subjects as pre-qualification for participation for the post of PGT Teacher alone. Such a transitional provision was not introduced for the post of TGT Teacher and the services of the TGT Teachers continued to be governed by the Haryana School Education (Group-C) State Cadre Service Rules, 2012 (hereinafter referred to as “Group-C Rules”) which required a candidate to have three Science subjects as pre-qualification for participation in the selection.

3. It is an admitted position that respondent No.1 did not qualify the B.Sc. with three subjects upto the last date of submission of the application form. She was only having subjects of Chemistry and Zoology in B.Sc. It was only later on, in the year 2017, the respondent No.1 passed the additional subject of Botany. Therefore, in the selections which were conducted vide advertisement dated 28.06.2015, respondent No.1 could not be said to be qualified for participation and thus, her candidature was cancelled rightly. Learned Single Bench has, therefore, erred in allowing the Writ Petitioner.

4. *Per contra*, learned counsel for respondent No.1 supports the judgment passed by the learned Single Bench and submits that so far as the 1998 Rules (unamended Rules) are concerned, the same were meant for the PGT Teachers and if the transitional provision has been introduced vide notification dated 02.07.2012, the same is required to be read for Group-C Teachers also.

5. Learned counsel for respondent No.1 further submits that when the 2012 Rules were introduced, immediately thereafter the petitioner pursued her studies in the subject of Botany also and completed the same within three years thereto and therefore, respondent No.1 ought to be treated as qualified for the purpose of selection.

6. Learned counsel for respondent No.1 further submits that the order passed by the learned Single Bench has to be understood to introduce the transitional provision also for Group-C Teachers namely; TGT Teachers as there cannot be any discrimination between the PGT and TGT Teachers for the purpose of granting the transitional benefit. The order passed by the learned Single Bench, therefore, ought not be interfered with.

7. We have considered the submissions of learned counsel for both the parties and perused the record available.

8. Learned Single Bench, while noticing that respondent No.1 possessed the B.Sc. in Chemistry and Zoology and that she passed additional subject of Botany after the closing date of submission of application form, was although not eligible but the notification dated 02.07.2012 gave a one-time measure to the persons who were fulfilling criteria of Rules of 2012, by invoking Rule 19A and therefore, the learned Single Bench proceeded to allow the Writ Petition holding that *respondent No.1 had already cleared two subjects and had also cleared third subject of Botany after the date of advertisement in April, 2017* (whereas it is actually in August, 2017).

9. We are unable to accept the approach adopted by the learned Single Bench as notification dated 02.07.2012 only makes an amendment in

the “Group-B Rules” which do not govern the conditions of appointment and selection for the post of TGT Teachers. The Rules which governed the post in question are “Group-C Rules” which have been notified separately. Unless an amendment is made in the said Group-C Rules, benefit of the exemption cannot be granted to a candidate who has applied for the post of TGT Teacher. The Rule making authority has consciously not granted the transitional provision to the TGT Teachers. The Court by way of interpretation cannot introduce any Rule in the services.

10. In view of the aforesaid, the order passed by the learned Single Bench cannot be sustained in the eyes of law. Respondent No.1 cannot be said to be eligible as was not qualified under the Group-C Rules or appointment for the post of TGT Teacher (Science).

11. Accordingly, this Appeal is allowed and order dated 14.03.2019, passed by the learned Single Judge in CWP-27624-2018 is set aside.

12. All pending applications filed in this case shall stand disposed of accordingly.

13. The applications filed in this Appeal by the respective parties for impleadment in the array of respondents are hereby dismissed. They are free to take up their own matters before the learned Single Bench.

[SANJEEV PRAKASH SHARMA]
JUDGE

March 19, 2024
Ess Kay

[SUDEEPTI SHARMA]
JUDGE

Whether speaking / reasoned	:	Yes	/	No
Whether Reportable	:	Yes	/	No