

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

256 Date of Decision: 03.12.2024

1) CWP-19142-2023

RITU

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

2) CWP-19151-2023

PRADEEP

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Ranjit Singh Kalra, Advocate with
Ms. Mona Yadav, Advocate
for the petitioner(s).

Mr. Parveen Mehta, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

The aforementioned two petitions are based upon similar facts involving common issues; accordingly, the same are being decided together. For brevity, the facts have been taken from CWP-19142-2023.

2. This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 31.12.2022, Annexure P-5, whereby despite being meritorious and possessing higher qualification in the same line as the requisite qualification, the petitioner has not been allowed to join as Para Teaching Associate (TGT-Social Studies), pursuant to deployment letter dated 30.11.2022, Annexure P-4.



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3. Facts of the case in brief are, the petitioner was duly selected as Para Teaching Associate (TGT-Social Studies) by the second respondent/Haryana Kaushal Rozgar Nigam Limited, and was issued the deployment letter dated 30.11.2022, allotting her Government Senior Secondary School, Kural, Block Loharu, District Bhiwani. She was, however, not allowed to join by the concerned Principal, who, vide impugned letter dated 31.12.2022, sought clarification from Director of the Nigam regarding a supposed ambiguity in the petitioner's aggregate marks asking the latter to clarify whether she was ineligible because her marks in Graduation were lower than fifty per cent in one of the subjects. As per details, she had secured the following percentage of marks in aggregate in three years in BA: History - $160/3=53.33$, Political Science- $141/3=47.00$, aggregate- $53.33+47.00=50.33$. Awaiting clarification, the petitioner was not allowed to join in this School, nor was any clarification issued by the Nigam. In this background, the instant writ petition was filed and, vide order dated 31.08.2023, the respondents were restrained from giving fresh appointment on the post against which the petitioner had been deployed.

4. Learned counsel for the petitioner(s) contends that without going into the individual subject marks of the petitioner in History or Political Science during the Graduation/BA degree, which are below the requisite fifty per cent in one of the subjects/Political Science, she is entitled to be considered for the post in the light of Government instructions dated 25.03.2016, Annexure P-6. These instructions are to the effect that candidates possessing higher qualifications in the same line as the required qualifications, are to be considered eligible. Since the petitioner possesses higher qualification of M.A. History, she is to be considered eligible for the post.

5. *Per contra*, learned State counsel contends that the petitioner lacks minimum fifty per cent marks in the subject of Political Science in Graduation/B.A. and, therefore, her qualification of M.A. History cannot be considered as a higher qualification in the same line. Accordingly, she lacks essential qualification for the post as laid down in the statutory Service Rules/Haryana School Education (Group C) State Cadre Service Rules-2012 (in short ‘the Rules of 2012’).

6. Heard.

7. It remains undisputed on record that the petitioner was deployed as Para Teaching Associate (TGT-Social Studies) by the Nigam vide letter dated 30.11.2022. Despite the deployment, she has not been allowed to join service because her marks for one of the subjects in Graduation, viz., Political Science, are less than fifty per cent, though cumulative marks for History and Political Science are above fifty per cent. The requisite qualifications for the post are the same as prescribed in column 3 of Appendix-B under Rule 7 of the Rules of 2012, which is reproduced hereunder:

7. No person shall be appointed to any post in the Service, unless he is in possession of qualifications and experience specified in column 3 of Appendix B to these rules in the case of direct recruitment on contract basis and those specified in Column 4 of the aforesaid Appendix in the case of persons appointed other than by direct recruitment on contractual basis.

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2.	TGT Social Studies	(i) xxx (ii) In case of B.A./B.Com, in addition to English, a combination of at least two subjects with at least 50% marks in aggregate individually in the subjects during all the years of study out of the following:-
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		(1) History (2) Political Science (3) Economics (4) Geography (5) Sociology (6) Psychology Note: At least History or Geography should have been for all the three years of Graduation. (iii) In case of B.Ed. Social Studies as a teaching subject from a recognized university; AND (iv) Certificate of having qualified Haryana Teacher Eligibility Test (HTET)/ School Teachers Eligibility Test (STET); AND (v) Matric with Hindi/Sanskrit or 10+2/B.A./M.A. with Hindi as one of the subject.
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7.1. A perusal of the laid down qualifications for the post of TGT Social Studies makes it apparent that in case a candidate possesses degree of B.A., in addition to English he/she should have a combination of two of the prescribed six subjects and clear the same with at least fifty per cent marks in each of these for all the years of study cumulatively. It also specifically prescribes that either of the two subjects, History or Geography, should have been studied in all the three years of Graduation.

7.2. The petitioner in the first petition (CWP 19142 of 2023) has studied History and Political Science, and the petitioner in the second petition (CWP 19151 of 2023) has studied History and Sociology in B.A. Undeniably, none of them meets the requirement of possessing over fifty per cent marks



cumulatively in each of the subjects during the three years degree course. And both have higher qualification of M.A. History, which has not been considered sufficient to meet the requisite qualification because the threshold of minimum fifty per cent marks in aggregate has not been crossed by them in other subjects of B.A. Resultantly, the argument is that to take the benefit of instructions, dated 25.03.2016, the higher qualification of MA should have been in the same line, i.e., in the subject where the percentage of marks secured is below the threshold.

7.3. The argument is far from acceptable because the instructions are to the effect, *‘if a candidate possesses higher qualifications in the same line as prescribed in the minimum qualifications applicable to a particular post, then he should be considered as eligible for that post.’* The minimum qualifications prescribed for the post of TGT Social Studies are BA with English and (i) at least fifty per cent marks in any two subjects (e.g. History and Political Science) cumulatively for three years, and (ii) either History or Geography in all three years. However, for eligibility based on higher qualification as per the instructions, the respondents have considered the subject specific higher qualification a must, whereas the instructions only require *higher qualifications in the same line as are the prescribed minimum qualifications*. Therefore, despite the petitioners possessing MA History, they have not been considered eligible for want of higher qualification in the second subject. Reading the instructions thus is unreasonable as it narrows down its scope by importing the words which do not actually find mention therein. It is not the requirement that a candidate must possess higher qualification in each of the subjects of a course to be eligible for the post; there is no such explicit condition and it cannot, therefore, be impliedly read



into it. History is not only one of the subjects in BA, it is an essential requirement for the candidates to study it in all three years to be eligible for the post in question. Therefore, MA History is a higher qualification in the same line as is the prescribed minimum qualification under the Rules, and possessing the same makes a candidate eligible irrespective of not having higher qualification in the other subject one has studied in BA.

7.4. Further, in case the respondents' interpretation of the instructions, dated 25.03.2016, is to be accepted, it would amount to saying the candidates have to possess higher qualifications in *each of the subjects* of BA in which they fail to cross the benchmark, instead of possessing the same in any one of the subjects they are permitted to pursue higher studies in. This is illogical, as the candidate should not be made to pursue multiple higher qualifications in different subjects, nor is it the norm. Also, it is not in dispute that candidates can pursue higher study/MA in any of the subjects they have studied in BA. Accordingly, in case a candidate for the post of Social Studies possesses higher qualification in any of the subjects he had in Graduation, it is to be considered higher qualification in the line of prescribed minimum qualifications. Still further, History is one of the subjects to be compulsorily studied during BA to be eligible for the post. On this account as well the petitioners' degree of M.A. History is to be considered as higher qualification in the same line as per the instructions. Accordingly, the objection to the petitioners' eligibility for not possessing the higher qualification in other subject(s) is arbitrary and illegal, and they are to be considered eligible for the post on the basis of MA History with more than fifty per cent marks in BA.

8. In view thereof, the petitions are allowed, the impugned letters dated 31.12.2022 (in CWP 19142 of 2023) and 08.12.2022 (in CWP 19151 of

2023), are set aside. The respondents are directed to allow the petitioners join service in response to deployment orders dated 30.11.2022, with notional benefits from the date other candidates deployed along with them have joined service, and actual benefits from the date of joining. The directions are to be carried out within one week of receiving a certified copy of the order.

9. A photocopy of this order be placed on the connected file.

(TRIBHUVAN DAHIYA)
JUDGE

03.12.2024
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>