

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

258(3)

CWP-31017-2019 (O&M)
Date of Decision:08.04.2024

Gurpreet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

Manjeet Singh and others

CWP-30237-2019

...Petitioners

Versus

State of Punjab and others

...Respondents

Renu

CWP-1170-2020

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON’BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Munish Garg, Advocate
for the petitioner in CWP-31017-2019.

Mr. H.C. Arora, Advocate
for the petitioners in CWP-30237-2019.

Ms. Alka Chatrath, Advocate
for the petitioner in CWP-1170-2020.

Mr. Arun Gupta, DAG, Punjab

AMAN CHAUDHARY, J.

1. These cases involve similar issues and therefore, are being disposed of together by this common judgment.
2. The prayer in the present petitions is for quashing the result sheets dated 06.10.2019 and 03.12.2019, as also for directing the respondents to accept the teaching experience of the petitioners as PTA teachers in Government school,

to be valid for determining their entitlement for recruitment to the post of Head Teacher.

3. Learned counsel would contend that the petitioners applied for the post of Head Teacher in response to the advertisement issued on 09.03.2019, for appointment of 1558 Head Teachers and 375 Centre Head Teachers. They had gained the required teaching experience of three years under the Parent Teacher Association in Government School and their names even figured in the merit list, however, were not included in the final one. In the advertisement, as also in the Rules, no specific distinction has been drawn as to whether the teaching experience has to be obtained while working in a particular capacity on the post, but for stating it to be that as a Primary School Teacher in Government school. Reliance is placed on judgments passed by this Court in **Sahil Pruthi vs. State of Punjab and others**, CWP-12617-2020, decided on 12.03.2024 and **Jyoti Bala vs. State of Punjab and others**, CWP-14513-2020, decided on 12.03.2024.

4. Per contra, learned State counsel while referring to paragraph No.4 of the written statement, submits that the petitioners were rightly not issued appointment letters, they having gained the teaching experience, while working as PTA teachers and in view of the clarification rendered in a meeting held on 16.09.2019, Annexure R-1, only the experience of working in the Central/State Government schools has to be taken into consideration and not the one gained from College, SMC, PTA, Resource, Community, Private School of Punjab, Guest and Part Time Teacher.

5. Heard learned counsel on either side.

6. The core issue at hand is whether the experience garnered as teachers while working under the Parent Teacher Association *albeit* in a Government School is countable towards the requisite three years' experience as delineated by

7. Apropos the above, it would be pertinent to refer to the qualifications and experience as required by Punjab State Elementary Education (Teaching Cadre) Group C Service Rules, 2018 (hereinafter referred to '2018 Rules'), which reads thus:

“(i) xx
(ii) xx
(iii) should possess teaching experience of working as Primary School Teacher for a minimum period of three years in a Central/State Government School. However, a prospective candidate must have acquired such experience after acquiring the minimum educational and professional qualifications specified for the posts under these rules.”

8. In **Dr. Ravinder Pal Kaur vs. State of Punjab and others**, (1979) 2 SLR 645, it was observed that teaching experience is not confined to one gained on regular appointment and when compared to that acquired through ad hoc appointments, there exists minimal difference, interposing that, “There is hardly any difference so far as teaching experience is concerned whether gained on ad hoc appointment or on regular appointment...”

9. The Division Bench of this Court in **D.P. Mehta (Dr.) vs. P.G.I. and its Governing Body**, 1997 (1) RSJ 501, was of the view that in standard parlance, the term experience is interpreted as "an actual living through something and coming to know it first hand rather than through hearsay or report". According to Webster 3rd New International Dictionary, 'experience' means "being engaged in a particular activity; direct observation of or participation in events, encountering, undergoing or living through things in general as take place in the course of time." It is accentuated that direct execution of duties is sufficient to qualify as requisite experience.

10. It may be profitable to refer to **Sec., Eng. Department, U.T. Administration, Chandigarh vs. Vipin Gupta And another**, CWP-12679-2010, decided on 25.10.2010, wherein the Division Bench observed that, “The

expression 'working experience' cannot be construed to mean that he must have gained the experience while working on a permanent substantive post on which he has been appointed on regular basis. In other words, long term regular promotion would not be necessary to gain experience of working because whether a person works on a post in his capacity as ad hoc/current duty charge holder/temporarily his nature of duties continues to be the same which any regularly promoted person would require to discharge.” Reiterating the aforesaid dictum, the Division Bench in **Chief Engineer, UT. vs. Ram Sarup Walia And Others**, CWP-77-2012 decided on 06.01.2012, emphasized the significance of accumulated experience rather than the specific nature of employment status, by observing that, “...In our view, 'the working experience' cannot be construed to mean that he must have gained the regular experience while working on a permanent substantive post on which he has been appointed on regular basis.”

11. A gainful reference may be made to the case of **Rakhi Sharma vs. Lt. Governor and others**, (1998) 47 DRJ 127, wherein the salary of the petitioner, appointed as teacher by the PTA was increased at par with the ones paid to similarly situated persons, at regular scales available to a primary school teacher, on the ground that they were all doing similar work, thereby placing them on an equal footing. It was observed that, “Petitioner has performed work like any other teacher, so she must be paid like any other teacher. 'Equal pay for equal work' has been a well settled principle of law. It is illegal and arbitrary to pay Rs. 500/- or Rs. 600/- p.m. only for performing full work of teacher to the petitioner. I direct that the petitioner be paid full salary, which is paid to the primary school teacher doing similar work from the date of her appointment till the date of this order within a period of 2 months. She will be paid in the same manner if respondents keep the petitioner in the School.”

is thus beyond the pale of doubt, of there being any difference in the duties performed by the petitioner or other teachers, who are not paid under the PTA scheme.

13. Discernible, as it is from the Rules and advertisement, that the emphasis therein is on experience of a candidate as a primary teacher in a Govt school. As such, neither nomenclature of the post held, be it Guest, Part-time, Ad hoc or Contractual, much less the funds from which the salary is paid can matter.

14. The convening of a meeting, subsequent to the commencement of the selection process, whereby the qualifications as required by the Rules are sought to be altered, would amount to changing the Rules of the game after the whistle has blown.

15. On a conspectus analysis of the facts of the case, the submissions of learned State counsel cannot be countenanced inasmuch as, paramount importance is to be attached to the minimum three years’ experience in Government school, which the petitioners possessed, though being paid under the PTA fund.

16. Ex-consequenti, the present petitions are hereby allowed. The respondents are directed to appoint the petitioners, subject to their merit positions in the selection, within a period of two months from the date, a certified copy of the judgment is received by them. Needless to clarify that they shall be entitled to only notional seniority, pay fixation etc, but not actual monetary benefits.

17. Pending applications, if any, also stand disposed of.

18. A photocopy of this order be placed on the files of the connected cases.

April 08, 2024
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(AMAN CHAUDHARY)
JUDGE