



\$~68

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4325/2024**

GHASU LAL KAMDE Petitioner

Through: Ms. Sitwat Nabi, Advocate

versus

UNION OF INDIA & ORS

..... Respondent

Through: Dr. B. Ramaswamy, CGSC for R-1 to R-3

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

%

21.03.2024

(The proceeding has been conducted through Hybrid Mode)

CRL.M.A.17721/2014 (for exemption)

Exemption is allowed, subject to all, just exceptions.

The application stands disposed of.

W.P.(C) 4325/2024

This is a writ petition under Article 226 of the Constitution of India, 1950, seeking *inter alia* the following reliefs:-

a. To issue a writ of mandamus or other appropriate writ or directions to the Respondent No. 02 to allow the Petitioner to participate in the interview process for the post of Principal and in the entire selection process of ESSE 2023;

b. To issue a writ of mandamus or other appropriate writ or directions to the Respondent No. 02 and Respondent No.3 to exercise powers of relaxation under Rule 8 of the Recruitment Rules and quash the provision of Rule 7 (b) Recruitment Rules for the post of Principal, issued by Respondent No.2 on 02.06.2023 vide Notification No. NESTS/ Admin/ GBM/31/2020-21 and oral directions issued to the Petitioner debaring him from participating in the interview for the post of Principal since the same are in violation of Article 14 and 16 of the Constitution, and



therefore are bad in law and deserve to be dismissed;

c. To issue a writ of mandamus or other appropriate writ or directions to the Respondent No. 02 and Respondent No.3 to declare that the post of “Varishth Adhyapak” and “Uchh Madhyamik Teacher” held by the Petitioner is equivalent to Post Graduate Teacher (“PGT”) as per the Recruitment Rules 7(b) for the post of Principal under the ESSE 2023, and that the Petitioner is qualified and eligible to appear for the interview for the post of Principal and recruitment proceedings of ESSE 2023.”

Learned counsel for the petitioner submits that this Court in ***Shashikant vs. Union of India through the Secretary Ministry of Tribal Affairs & Ors.*** passed in W.P.(C) 3251/2024, in a similar case, directed the respondents to consider the writ petition as a representation and dispose of the same in accordance with law. She very fairly submits that in the said case, this Court had already directed that the aforesaid order is passed in the peculiar facts arising in that particular case and the same could not be treated as a precedent in any other case. However, she submits that time and again, this issue has been cropping up and needs to be put a quietus to once and for all. To substantiate her aforesaid contention, learned counsel for the Petitioner, invites attention of this Court to the notification regarding eligibility criteria and qualification, which is extracted hereunder:-

“CHAPTER 4: ELIGIBILITY CRITERIA & QUALIFICATION

Post	Age Limit	Qualification and Experience
Principal	Not exceeding 50 years. Age relaxation for SC/ST/OBC and other categories as applicable under the Govt. of India	Essential Qualification: A. Academic: i) Master’s Degree from recognized University/Institute ii) B.Ed. degree B. Experience: Persons having 12 years of



	Rules. Up to 55 years for EMRS employees*	combined experience as Vice Principal/PGT/TGT with minimum 4 years as PGT and above DESIRABLE: 1. Experience of working in a fully residential school. 2. Proficiency in English, Hindi and Regional Language. 3. Working knowledge of computers																								
PGT	Not exceeding 40 years. Age relaxation for SC/ST/OBC and other categories as applicable under the Govt. of India Rules. Up to 55 years for EMRS employees*	Essential Qualification: A. Post Graduate degree from any recognized University/ Institute deemed as University in following subjects: <table><tr><td>Post</td><td>Master's Degree in the Subject**</td></tr><tr><td>PGT(English)</td><td>English</td></tr><tr><td>PGT (Hindi)</td><td>Hindi</td></tr><tr><td>PGT (Physics)</td><td>Physics</td></tr><tr><td>PGT (Chemistry)</td><td>Chemistry</td></tr><tr><td>PGT (Mathematics)</td><td>Mathematics</td></tr><tr><td>PGT (Biology)</td><td>Botany/Zoology/Biology</td></tr><tr><td>PGT (History)</td><td>History</td></tr><tr><td>PGT (Geography)</td><td>Geography</td></tr><tr><td>PGT(Commerce)</td><td>Commerce with Accounting/Cost Accounting/ Financial Accounting as a major subject of study. Holders of Degree of M.Com. in Applied/Business Economics shall not be eligible.</td></tr><tr><td>PGT (Economics)</td><td>Economics</td></tr><tr><td>PGT (Regional Language)</td><td>Regional Language</td></tr></table>	Post	Master's Degree in the Subject**	PGT(English)	English	PGT (Hindi)	Hindi	PGT (Physics)	Physics	PGT (Chemistry)	Chemistry	PGT (Mathematics)	Mathematics	PGT (Biology)	Botany/Zoology/Biology	PGT (History)	History	PGT (Geography)	Geography	PGT(Commerce)	Commerce with Accounting/Cost Accounting/ Financial Accounting as a major subject of study. Holders of Degree of M.Com. in Applied/Business Economics shall not be eligible.	PGT (Economics)	Economics	PGT (Regional Language)	Regional Language
Post	Master's Degree in the Subject**																									
PGT(English)	English																									
PGT (Hindi)	Hindi																									
PGT (Physics)	Physics																									
PGT (Chemistry)	Chemistry																									
PGT (Mathematics)	Mathematics																									
PGT (Biology)	Botany/Zoology/Biology																									
PGT (History)	History																									
PGT (Geography)	Geography																									
PGT(Commerce)	Commerce with Accounting/Cost Accounting/ Financial Accounting as a major subject of study. Holders of Degree of M.Com. in Applied/Business Economics shall not be eligible.																									
PGT (Economics)	Economics																									
PGT (Regional Language)	Regional Language																									



		**Master's Degree in any subject other than the subjects mentioned above will not be considered eligible. Important Note: Candidates possessing Master's Degree with specialization in subject (s) as mentioned above will only be considered as eligible.
--	--	---

According to Ms. Nabi, learned counsel for the petitioner, the persons having 12 years of combined experience as Principal and Vice Principal PGT/TGT with minimum four years as PGT and above are entitled to be considered for such post. She submits that it is not doubted that the petitioner is holding the post of Principal as one of the schools run by NESTS/respondent no.2. According to the learned counsel, the petitioner is qualified and employed with respondent no.3 under respondent no.2. She submits that so far as the petitioner is concerned, his qualifications have been categorically mentioned in page 26 of the writ petition. The same is extracted hereunder:

SCHOOL	POST	SUBJECT	CLASS	TYPE OF POST	PAY MATRIX	FROM	TO	YEAR
MP STATE GOVT.	SAVISALA SHIKSHAK VARG-2/ADHAYAPAK (Equivalent to TGT)	SCIENCE	6th TO 8th	REGULAR	3500-7000	23-04-2008	18-10-2014	6 YEARS 7 MONTHS
	BAC.	SCIENCE	6th TO 8th	REGULAR	3500-7000	18-10-2014	26-02-2016	1 YEARS 4 MONTH
	VARISTH ADHYAPAK/UMT (Equivalent to PGT)	BIOLOGY	11 th TO 12 th	REGULAR	47300	26-02-2016	30-07-2016	6 YEARS 7 MONTH
	UCHH MADYAMIK TEACHER	BIOLOGY	11 th TO 12 th	REGULAR	47300	30-07-2018	28-09-2022	4 YEARS 2 MONTHS
EMRS MANDLA	PRINCIPAL	BIOLOGY		REGULAR	47300	28-09-2022	TILL 31-07-2023	8 MONTHS
TOTAL								14 YEARS 8 MONTHS

According to Ms. Nabi, learned counsel appearing for the petitioner



the petitioner has a total experience of 14 years 8 months in all. She submits that the post '*Varishth Adhyapak/Uchh Madhyamik Teacher*' is equivalent to the PGT in the State of Madhya Pradesh.

Ms. Nabi, learned counsel appearing for the petitioner submits that the petitioner would be satisfied in case the competent authority of respondent no.2 dispose of the representation dated 22.02.2024 in accordance with law.

Mr. Ramaswamy, learned CGSC appearing for the respondents vehemently opposes the present petition on the ground that the notification stipulates only a PGT and as such the case of the petitioner predicated on the submission that even a *Varishth Adhyapak/Uchh Madhyamik Teacher* would have an equivalence to the PGT would not suffice the requirement of the notification. He submits that the notification is silent in respect to equivalence with PGT and as such only such persons who have the requisite qualification as a Post Graduate Teacher as stipulated in the notification alone could be persons who would be eligible for consideration.

Mr. Ramaswamy, learned CGSC for the respondent also invites attention of this Court to page 156 which is a notice dated 09.02.2024 whereby at the time of interview, the documents which specifically were required to be brought for the interview, were clearly specified. In case any person including the petitioner did not possess the said qualification or the documents specified therein, the person would automatically be ineligible for the interview.

Be that as it may.

Since the petitioner's representation has not been responded to, it appears that further suitable directions to that extent can be passed.



In view of the aforesaid submissions of the parties as also to cut short the litigation and dispute, it is appropriate to direct the competent authority – respondent no.2 to treat the present petition as a representation, who may after giving an adequate opportunity to the petitioner of hearing and to place on record all requisite documents, dispose of the same with a reasoned and speaking order within a period of 10 working days from today.

The copy of the said speaking order be furnished to the petitioner forthwith as soon as the order is passed.

This Court has not made any observations on the merits of the matter. The contentions of the parties are left open.

In view of the aforesaid direction, the present petition alongwith pending application, if any, is disposed of.

TUSHAR RAO GEDELA, J.

MARCH 21, 2024/ns