

CWP-3005-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201 (5 cases) CWP-3005-2024 (O&M)
Date of Decision :29.10.2025

Chandigarh Administration and another ...Petitioners

Versus

Vishal Khanna and others ...Respondents

CWP-6340-2024

Chandigarh Administration and another ...Petitioners

Versus

Jyoti and others ...Respondents

CWP-6351-2024

Chandigarh Administration and another ...Petitioners

Versus

Sahab Singh and others ...Respondents

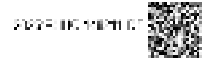
CWP-8124-2024

Chandigarh Administration and another ...Petitioners

Versus

Pawan Kumar and others ...Respondents

CWP-8126-2024



Chandigarh Administration and another

...Petitioners

Versus

Narender and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Jaivir S. Chandail, Addl Standing Counsel
with Mr. Himanshu Arora, Advocate
for the petitioner-U.T., Chandigarh.

Mr. Rohit Seth, Advocate with Mr. K. Vinay, Advocate
for respondent No.1,3,4,7 & 9 in CWP-3005-2024 and
for respondent No.1 in CWPs-6351-2024, CWP-8124-2024 &
CWP-8126-2024.

Mr. Rakesh Nagpal, Advocate for respondent No.1
in CWP-6340-2024.

Mr. Karan S. Gill, Standing Counsel
for respondent No.10-NCTE.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present bunch of five petitions the challenge is to the order dated 28.08.2023 (Annexure P/3) passed by the Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as 'the Tribunal') by which, the rules for appointment to the post of Nursery Teacher have been interpreted to mean that the candidates having diploma in Nursery Teacher Education/Pre-School Education/Early Childhood Education Programme (D.E.C.Ed.) of two years is not mandatory to be recognised from National Council for Teacher Education (hereinafter referred to as 'NCTE') and any such diploma held by the candidate is to be treated as a valid diploma to consider such a candidate eligible to compete for the post of Nursery

Teacher.

2. Certain facts need to be mentioned for the correct appreciation of the issue in hand.

3. The petitioner-Chandigarh Administration had advertised 131 posts of the Nursery Teachers to be filled on a regular basis vide recruitment notice issued in August, 2019 and the last date of submission of the application form was 30.09.2019. The respondents competed for the said post and successfully cleared the written test on 16.11.2019 and after qualifying the same, they were called for scrutiny of their documents and in the scrutiny of documents held on 13.12.2019, they were declared ineligible keeping in view the qualification prescribed under the relevant rules as they did not possess two years diploma recognized by the NCTE.

4. The said grievance was raised by the respondents before the Tribunal by way of filing the original application and all such candidates who had raised the grievance, their original applications were decided by the Tribunal together vide order dated 28.08.2023 (Annexure P/3) wherein the claim of the respondents candidates were allowed and the Tribunal had recorded a finding that as the NCTE had also prescribed the qualifications for the post in question which are pari-materia to the qualification prescribed by the Chandigarh Administration, the diploma possessed by the candidates need not necessarily to be from an institution recognised by the NCTE, hence, such candidates should be treated eligible to compete for the 131 posts as advertised by the Chandigarh Administration vide recruitment notice issued in August, 2019. The said order dated 28.08.2023 (Annexure P/3) passed by the Tribunal is under challenge in the present bunch of petitions before this Court.

5. Learned counsel for the petitioner-Chandigarh Administration contends that the tribunal has erred in granting the benefit to the respondents-candidates solely on the basis of the rules prescribed by the NCTE disregarding the rules which have been framed and amended by the Chandigarh Administration which existed on the date when the recruitment notice of August, 2019 was issued.

6. Learned counsel for the petitioner-Chandigarh Administration submits that the amended Notification dated 04.12.2018 (Annexure P/4) issued by the Chandigarh Administration, which prescribes the requisite qualifications to be eligible to compete for the post of Nursery Teacher, has been ignored by the Tribunal and only the qualification which was prescribed by the NCTE has been relied upon and taken as a valid qualification to decide the eligibility of the candidates, which is incorrect as, the prescription of the qualification by the employer i.e. Chandigarh Administration has to be considered and taken as a governing criterion, which fact has not been duly appreciated by the Tribunal while passing the impugned order declaring the respondents-candidates to be eligible to compete for the post of Nursery Teacher.

7. Learned counsel for the petitioner-Chandigarh Administration further contends that the Hindi version of the qualification prescribed by the NCTE has been made the basis by the Tribunal to decide whether, the diploma of two years in Nursery Teacher Education/Pre-School Education/Early Childhood Education Programme (D.E.C.Ed.) must be from an institution recognized by NCTE and has been decided on the basis of the notification of the NCTE, which is not correct as, the qualification prescribed for appointment to such post by the Chandigarh Administration



should have been looked into. Hence, the order passed by the Tribunal dated 28.08.2023 (Annexure P-3) may kindly be set aside.

8. Upon notice of motion, learned counsel for respondents candidates appeared and submits that once, the NCTE has been recognized as the competent authority to prescribe the qualification and the NCTE has prescribed certain qualifications in English language as well as in Hindi language and when such qualifications are perused in the notification issued by the NCTE in Hindi language, which has also been reproduced by the Tribunal in the impugned order, it becomes evident that only the B.Ed (Nursery) qualification is required to be obtained from an institution recognised by NCTE whereas, no such requirement exists for the qualification of two-year diploma to be recognised by the NCTE, which fact has rightly been interpreted by the Tribunal to treat the candidates eligible for the post of Nursery Teacher and hence, the present writ petitions filed by the Chandigarh Administration challenging the order dated 28.08.2023 (Annexure P-3) passed by the Tribunal are liable to be dismissed.

9. We have heard learned counsel for the parties and have gone through the record with their able assistance.

10. It may be noticed that the NCTE being a regulatory body, is competent only to prescribe the minimum qualification required to be adopted by the particular State for recruiting the candidates to the post of Nursery Teacher. The State, however, retains the authority to prescribe a stricter or higher qualification in case the State intends to do so.

11. In the present case, a distinction is apparent between the qualifications which have been prescribed by the NCTE and the rules framed by the Chandigarh Administration for appointment to the post of Nursery



Teacher. When the qualifications prescribed by the NCTE are perused, which has also been examined by the Tribunal, when the Hindi version of such qualification is read, the interpretation given by the Tribunal is correct that only the B.Ed qualification has to be obtained from an institution recognized by NCTE but when, the rules framed by the Chandigarh Administration i.e. the employer are perused, they are different as, no such corresponding Hindi version of the rules exists within the qualifications prescribed by the Chandigarh Administration and the qualification prescribed for the post of Nursery Teacher as per the amended Notification dated 04.12.2018 (Annexure P-4) issued by the Chandigarh Administration is that either two year diploma or B.Ed (Nursery) qualification should be from an institution recognised by the NCTE. The Notification dated 04.12.2018 (Annexure P-4) issued by the Chandigarh Administration prescribing the qualification is as under:-

EDUCATION DEPARTMENT

Notification

The 4th December, 2018

No. DSE-UT-S1-11(393)17-11.-In exercise of the powers conferred by the proviso to article 309 of the Constitution read with the Government of India, Ministry of Home Affairs Notification G.S.R. No. 3267. dated 1st November 1966, the Administrator, Union Territory, Chandigarh is pleased to make amendment in Chandigarh Education Service (School Cadre) (Group-C) Recruitment Rules 2018. Namely:

1. These rules may be called the Chandigarh Education Service (School Cadre) (Group-C) Recruitment (Amendment) Rules 2018.

2. They shall come into force from the date of their publication in the Chandigarh Administration Gazette.



3. In Chandigarh Education Service (School Cadre) (Group-C) Recruitment Rules 1991, In schedule at Serial No. 8 against the post Nursery Teacher on Column No. 7 against the existing entries the following shall be substituted namely:-

(i) Senior Secondary School Certificate (Class XII or its equivalent) from recognized board with at least 50% marks

OR

Senior Secondary (Class XII or its equivalent) from recognized board with atleast 45% marks in accordance with the NCTE Regulations, 2002 notified on 13th November, 2002, AND

(ii) Diploma in Nursery Teachers Education/ Pre-School Education/Early Childhood Education Programme (D.E.C.Ed) of duration of not less than two years or B. Ed. Nursery from NCTE recognized institution.

4. Further at Sr. No. 8 on column No. 9 against the existing entries the following shall be substituted:-

"Period of probation-3 years".

BANSI LAL SHARMA
Education Secretary,
Chandigarh, Administration.

12. A bare perusal of the above reproduced notification would show that there is no 'comma' mentioned before the word 'or' in the qualification mentioned at Sr. No. 3(ii) after the words describing the qualification of two years diploma, which materially alters the meaning of the qualification clause envisaged under the rules. The rules when read as a whole clearly prescribes that either the two years Diploma or the B.Ed (Nursery)



qualification which is a minimum qualification to be possessed by a candidate to be eligible to compete for the post of Nursery Teacher, the same has to be from an institution recognized by the NCTE.

13. It may be noticed that in contrast, the qualification prescribed by the NCTE itself contains a 'comma' after the first qualification which clearly envisages that this punctuation distinctly indicates that two different qualifications were intended to be prescribed - one being diploma and other being B.Ed (Nursery), either would suffice for eligibility.

14. Once, the Chandigarh Administration has issued a notification dated 04.12.2018 for prescribing a particular qualification for the post in question and the said notification is not under challenge, the Tribunal should not have ignored the notified rules governing the aspect of appointment to the post of Nursery Teacher framed by the Chandigarh Administration. The said rules have to be interpreted as they specifically regulate recruitment under the Chandigarh Administration whereas, the Tribunal has given preference to the rules prescribed by the NCTE so as to declare the respondents-candidates eligible to compete for the post of Nursery Teacher. Once, there is a difference between the rules prescribed by the NCTE for appointment to the post of Nursery Teacher as compared to the rules for appointment to the post of Nursery Teacher notified by the Chandigarh Administration, unless and until there is a challenge to the said rules, the rules framed by the Chandigarh Administration have to prevail over the rules prescribed by the NCTE, especially when, the Chandigarh Administration has prescribed the stricter rules than the one prescribed by the NCTE.

seen, then the interpretation given by the author of the rules i.e. the rule making authority has to be given due weightage rather than ignoring the same. The Chandigarh Administration is on record to say that both the qualification i.e. the two years diploma or the B.Ed (Nursery) have to be from an institution recognized by the NCTE. Once, the employer i.e. Chandigarh Administration is giving the said interpretation to the rules, declining to accept the same unless and until the said view is not projected out of the bare reading of the rules, the interpretation given by the author of the rules has to be accepted. The Tribunal has ignored the said interpretation of the rules of the Chandigarh Administration to treat the respondents-candidates as eligible, which cannot be accepted.

16. It is a well settled principle of law that the State has every power to prescribe a higher qualification for appointments than the one prescribed by an authority under a Central Statute provided it is not inconsistent with the minimum qualification prescribed by the authority, and if some stringent qualification is prescribed, it cannot be taken as contrary but only as complementary or supplementary to the prescription already made by the authority which has been settled by the Hon'ble Supreme Court of India in **Dr. P. Bonny Natesh vs. State of Kerala and others, Civil Appeal No.2604/2016, decided on February 02, 2023.** The relevant paragraph of the same is as under:-

“Taking note of the minimum qualifications for teachers prescribed by the Regulations, 1998 and the qualifications and method of appointment to the teaching faculties prescribed by the State of Kerala, it clearly manifests that the Medical Council of India has prescribed the minimum qualification for appointment of medical teachers and the State of Kerala has laid

down a higher benchmark in prescribing the academic qualification for appointment/promotion to the post of Associate Professor/Professor which, in our opinion, is in conformity with scheme of Regulations, 1998 and that is always permissible under the law.”

17. Further, the diploma which the respondents-candidates possessed, is a lesser qualification as compared to the B.Ed. which qualification is the other option to be eligible for the post in question. Once, a higher qualification is to be from an institution recognized by NCTE, it cannot be said that a lesser qualification of diploma can be obtained from even an unrecognized institution. The said interpretation given, can lead to disastrous result as any candidate having basic diploma from a ‘commercial’ institution will have to be treated eligible which will not be in favour of the infants, toddlers etc., who are to be taught by such candidates. The interpretation given by the Chandigarh Administration, in the facts and circumstances of the present case that the diploma has to be from an institution recognized by the NCTE is perfectly valid and legal and the same has to be adhered to so as to ensure that the Nursery children are taught by the teachers who are competent to do so, so that they can grow in life and get better education at the hands of competent teachers.

18. Learned counsel for the respondents has placed reliance upon the judgement of the Hon’ble Supreme Court of India in **Civil Appeal No.3897-2001 titled as Yogesh Kumar and others vs. Government of NCT Delhi and others decided on 5.3.2003** to contend that the claim that the B.Ed candidates should be considered for appointment was not accepted.

18. It may be noticed that the said judgment is not applicable in the facts and circumstances of the present case as there is no dispute as to which

qualification is to be accepted i.e. diploma or the B.Ed. rather, the issue is whether the qualification of diploma or B.Ed. has to be from an institution recognized by the NCTE or not, which is entirely different.

19. Keeping in view the totality of the facts and circumstances recorded hereinbefore, the present bunch of five petitions is allowed. The impugned order dated 28.08.2023 (Annexure P-3) passed by the Tribunal being perverse to the rules framed by the Chandigarh Administration vide Notification dated 04.12.2018 (Annexure P-4), as reproduced hereinbefore, is set aside qua the finding given by the Tribunal in favour of the respondents-candidates that they are to be treated eligible to compete for the post of Nursery Teacher as advertised by Chandigarh Administration vide recruitment notice issued in August, 2019.

20. At this stage, learned counsel for the respondents submits that as there are two different set of rules prescribed for appointment to the post of Nursery Teacher, one by the NCTE and another by the Chandigarh Administration vide Notification dated 04.12.2018 (Annexure P/4), a liberty be given to the respondents to challenge the said Notification dated 04.12.2018 (Annexure P-4) by availing an appropriate procedure.

21. Order accordingly.

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

23. Civil miscellaneous application pending if any is also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

October 29, 2025
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Whether speaking/reasoned : Yes
Whether reportable : Yes