

CWP-25408-2019

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-25408-2019

Reserved on: 28.01.2025

Date of decision: 17.03.2025

HARSIMRAN KAUR

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. Sunny Singla, Advocate
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner has prayed for the issuance of a writ in the nature of quashing the list of CHT/HT withheld eligible Candidates dated 06.09.2019 (P-16 & P-17) and selection Lists of CHTS/HTs dated 04.09.2019 (P-14 & P-15), Public Notice (P-2), which are contrary to the Punjab State Elementary Education (Teaching Cadre) Group-C Service Rules, 2018 and Advertisement dated 08.03.2019 (Annexure P-1), without declaring the result of the competitive exam of 300 Marks held on 20.07.2019 & on 21.07.2019 and without disclosing the marks obtained in Educational/ professional qualification, as the issuance of selection list of candidates, is against the principles of natural justice and contrary to the Conditions

of the apposite advertisement and are in complete violation of Articles 14 & 16 of the constitution of India, as no objection list or rejection list of candidates has been circulated.

3. The petitioner has further prayed that a writ in the nature of mandamus be issued to the respondents to consider & appoint the petitioner on the post of CHT/HT in pursuance to the Advertisement dated 08.03.2019 (P-1) by considering her Educational and Professional Qualification along with seniority and all consequential benefits.

4. The grievance of the present petitioner, is that, the benefit of age relaxation has been given to the persons, besides, experience has been counted, who were working as contrary/daily wage/out sources i.e. Educational Volunteers (Sikhya Provider), STR, EGS Volunteers/AIE Volunteers, which is against the advertisement, as they are not working under the control of Education Department, no Annual Confidential reports of these volunteers were ever recorded and were not appointed as per the Punjab State Education Class III (Primary School Cadre) Service Rules, 1997.

5. Therefore, the fulcrum of the lis is centered upon Clause 2 and 5 as regards respectively the educational qualification and age limit, clause whereof is re-extracted hereinafter, whereby the relaxation of age of 45 years is made applicable only to those teachers who were employees of Punjab, other States and Union Territory.

“2. Educational Qualification (C.H.T):-

(i) Should possess Bachelors Degree from a recognized university or institution with at least 50% marks as per guidelines of the University Grants Commission. (ii) Should possess two years Elementary Teachers Training course from a recognized

university or institution or two years Diploma in Elementary Education (D.El.Ed.) as per guidelines of the National Council for Teachers Education or Bachelor Degree in Education (B.Ed) from a recognized university or institution as per guidelines of the University Grants Commission and

(iii) Should possess teaching experience of working as Primary School Teacher for a minimum period of four 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.

Educational Qualification (H.T):-

(i) Should possess Bachelor's Degree from a recognized university or institution with at least 50% marks as per guidelines of the University Grants Commission. (ii) Should possess two years Elementary Teachers Training course from a recognized university or institution or two years Diploma in Elementary Education (D.El.Ed.) as per guidelines of the National Council for Teachers Education or Bachelor Degree in Education (B.Ed) from a recognized university or institution as per guidelines of the University Grants Commission and (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.

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5. Age Limit:-

(i) The age of the candidate should be between 18 to 37 years as on 01.01.2019.

(ii) Upper age limit of the employees of Punjab State, Other States, and, Union Territories States shall be 45 years.”

6. Sikhya Providers became appointed under the scheme (Sarva Shiksha Abhiyan), and, the said scheme is floated by the Government of

India, whereby it also appears that the funds became sourced from the Government of India. However, the said scheme was to be implemented by the Education Departments of the various Federal Units in the Union of India.

7. Resultantly when the salaries/wages of the Sikhya Providers engaged under a scheme floated, thus under the Education Department of the State of Punjab. Moreover, when preceding the issuance of appointment letters, the selected Sikhya Providers underwent the rigor of rigorous screening test. Secondly the impact of wages being paid by the Central Government, the implementation of the scheme, whereby the relaxation clause underlining the fact that those who are the employees of Punjab Government, Other States, and, Union Territories to be afforded, as in the wake of the above, they were in the employment of Central Government or of the Government of Punjab. As such, they are duly entitled for the age relaxation, besides for counting their services towards experience.

8. In case the said is not done, thereby the aim and objective of the scheme floated by the Government of India, whereto funds also became provided by the Government of India, through the relevant budgetary provisioning becoming made, besides when the scheme(s) were to be implemented and also became implemented, by the State Government concerned, thus leading to the Sikhya Providers becoming appointed to teach the students in the government schools, thus for ensuring the upliftment of the cause of education, through education, become imparted in the remote locales concerned. Since thereby the

salutary Constitutional provisions carried in Article 21-A of the Constitution of India, do also become achieved, thereupon the denial of relief to the present Sikhya Providers but would militate against the Constitutional objective, as enshrined in Article 21-A of the Constitution of India.

9. Now in case this Court leans to the view, that the said Constitutional objective is to be furthered, which is the aim and objective of the (supra) floated scheme, besides also when the Sikhya Providers were serving in government schools functioning within the State of Punjab, therebys as but a natural corollary theretos, they are deemed to be in the employment of the Government of Punjab or of the Government of India, wherebys they were to be bestowed the benefit of age relaxation. The said is also to be bestowed, as unless it is bestowed, therebys reiteratedly the experience in teaching gained by the Sikhya Providers would become completely effaced, whereas, with the said being not permitted to be effaced qua the employees of the Government of India or the State Governments, therebys prima facie it would result, in an ill invidious classification becoming created rather within the same homogeneous class of teachers, and, to all of whom parity of treatment vis-a-vis age relaxation is to be afforded.

10. Moreover, when through a notification issued on 26.02.2020, the Sikhya Providers are specified to be Primary School Teachers, notification whereof stands extracted hereinafter.

“2. In the Punjab State Elementary Education (Teaching Cadre) Group 'C' Service Rules, 2018 (hereinafter referred to as 'said rules'), in rule 2, in sub rule (1), after

clause (g), the following shall be inserted, namely:-

"(gg) 'Primary School Teacher' means a person appointed under these rules and includes Sikhya Provider, Education Provider, Education Volunteer, Education Guarantee Scheme Volunteer (EGSV), Alternative and Innovative Education Volunteer (AIEV) and Special Training Resource Volunteer (STRV), who teach classes Ist to Vth in any Government School under the control of the Director."

11. Resultantly, the impact of the above, is that, therebys also respondents conceding that the Sikhya Providers are deemed to be primary school teachers, wherebys they were to be also afforded the benefit of age relaxation, but the said impact is not applicable in the present lis, because the Rules were amended subsequent to the advertisement whereupon, the said Rules cannot be applied retrospectively. Moreover, when the intention of the respondent can be gauged from the said amendment, inasmuch as, they were considering Educational Volunteers (Sikhya Provider), STR, EGS Volunteers/AIE Volunteers, as their employees. Hence, the apposite volunteers have been aptly provided the benefit of age relaxation.

12. In sequel, there is no merit in the instant petition, and the same is dismissed.

13. The miscellaneous application(s), if any, is/are, also disposed of.

(SURESHWAR THAKUR)
JUDGE

17.03.2025

Ithlesh

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No

(VIKAS SURI)
JUDGE