

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.10054 of 2016
Date of Decision: 23.04.2019

Mahesh KumarPetitioner

Vs.

State of Haryana and othersRespondents

CWP No.11259 of 2017
Date of Decision: 23.04.2019

Kuldeep SinghPetitioner

Vs.

State of Haryana and othersRespondents

CWP No.11741 of 2016
Date of Decision: 23.04.2019

Radhey ShyamPetitioner

Vs.

State of Haryana and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Jagbir Malik, Advocate, for the petitioner(s)
(in CWP No.10054 and 11741 of 2016).

Mr.Jasbir Mor, Advocate, for the petitioner(s)
(in CWP No.11259 of 2017).

Mr.Gaurav Jindal, Addl.A.G.Haryana.

RITU BAHRI, J. (ORAL)

This order shall dispose of the aforesaid three writ petitions as

common questions of law and facts are involved in the three writ petitions.
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However, the facts are taken from CWP No.10054 of 2016 for convenience.

Petitioner is seeking quashing the action of the respondent No.2 by which JBT teachers juniors to the petition are promoted as TGT Science and the claim of the petitioner for promotion to the post of TGT Science has been rejected orally on the ground that B.Sc. The petitioner is not having 50% marks.

The brief facts of the case are that petitioner has passed Matriculation from Board of School Education Haryana by securing 60.50% Marks. On 30.05.1991, he has passed securing 10+2 Examination from Board of School Education Haryana by securing 57% Marks. After passing 10+2, on 10.06.2000, the petitioner has passed his B.Sc. with the subjects of Mathematics, Physics and Chemistry by securing 43.17% marks on 16.03.2001, the petitioner has passed his two years Diploma in Education from Secondary Education Department, Haryana by securing 88.30% Marks. On 08.06.2009, the petitioner has also passed B.Ed. from Indira Gandhi National Open Universities, New Delhi by securing 60.70% marks. The detailed mark sheets has been attached with the file as Annexure P-1 to P-4. That being fully eligible for the post of JBT Teacher, the petitioner has applied for the advertisement post under BCB category and on 14.12.2010, he was selected and appointed as JBT Teacher being a BCB candidate (Annexure P-6). The petitioner is having the qualification of B.Sc. with subject combination of Physics, Chemistry and Mathematics with Two Years Diploma in Education (Diploma in Elementary Education) which is sufficient for promotion to the post of TGT Science. According to the petitioner, where the JBT teacher is having the qualification of B.Sc. With

two years Diploma in Elementary Education, he is not required to have 50%

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Marks in B.Sc. for promotion as TGT Science. So, without having 50% marks in B.Sc., the petitioner is eligible for promotion to the post of TGT Science. There were 1514 posts of TGT Science meant for promotion quota, for which the cases of various JBT Teachers were sent to the directorate. The case of the petitioner was forwarded through proper channel for promotion to the post of TGT Science. The service record and result of the petitioner was enclosed with the case file. Vide order dated 18.03.2016, 49 JBT teachers have been promoted to the post of TGT Science and vide order dated 22.03.2016 (Annexure P-10), respondent No.2 has promoted 153 JBT Science out of 1514 posts meant for promotion quota were filled up and the remaining posts of TGT Science meant for promotion quota are still vacant. Accordingly, these 302 candidates, there are number of JBT Teachers who are junior to the petitioner because the Merit Number of the petitioner was 4220 and a number of other JBT Teachers who are lower in merit have been given promotion to the post of TGT Science. Hence, the present writ petition has been filed.

Learned counsel for the petitioner has argued that as per Haryana Government School Education Department Notification dated 11th April, 2012 (Annexure P-7), the condition of having 50% Marks in B.Sc. is not applicable in the case of the petitioner because he had joined as JBT Teacher with the qualification of B.Sc. With 2 years Diploma in Elementary Education. The petitioner is a Backward Class Category JBT teacher and had passed his B.Sc. with 43.17% marks with the subject combination of Physics, Chemistry and Mathematics and 1 year B.Ed. Degree in accordance with the NCTE Regulations. So, in view of relaxation of 5% marks in B.Sc.

given in Note (iv) given below the Appendix of Rules of 2012, the petitioner
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is eligible for promotion to the post of TGT Science with all consequential benefits. Moreover, he argued that the National Council for Teacher Education has clarified that the nomenclature of various Elementary Teacher Education Programs specifically declared that two years Diploma in Education and Diploma in Elementary Education, both are one and the same thing. The relevant Clause 1(2) of the Norms and Standards for Diploma in Elementary Teacher Education programme carries different nomenclatures like BTC, Diploma in Education, TTC and so on. Both the duration of training and entry qualifications of the course are same hence, nomenclature of the course shall be same across all states.

Learned counsel for the State has argued that the petitioner belongs to General Category and passed the B.Sc. Examination having 43.17% marks which are less than 50% and further he is not having B.Sc. and two year Diploma in Elementary Education which are required under the service rules as mentioned above. Therefore, he does not fulfill the criteria for the promotion to the post of Science Master. He further argued that petitioner is confusing that he joined as JBT Teacher with the qualification of B.Sc. with two years Diploma in elementary Education. He is a Backward Class Category JBT Teacher and has passed his B.Sc. With 43.17% marks with the subject Combination of Physics, Chemistry and Mathematics and 1 year B.Ed Degree. Therefore, the averments of the petitioner that the condition of the percentage of marks is not applicable in his case for promotion are totally misleading. He referred to the decision of this Court in CWP No.17467 of 2010 decided on 13.07.2011 titled Ritesh Datta and others Versus State of Haryana and others wherein, it has been

held that prescribing minimum education qualifications involves a policy
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decision to be taken by the State Government to the authority vested with the same under any statute and in view of this, the petitioner is not competent to file the present writ petition before this Court.

In CWP No.10054 of 2016 and CWP No.11741 of 2016, petitioner has passed Diploma in Education Part -II (Annual) in November, 2007 as per certificate (Annexure P-4) which was issued by Director Secondary Education, Haryana and in CWP No.11259 of 2017, petitioner has passed Diploma in Education Part II in first Division in the year 2006 (Annexure P-2) and this certificate was issued by Deputy Director Exam for Director of Secondary Education, Haryana. As such, all the cases are identical in nature.

The question for consideration in the present writ petition is that as to whether certificate (Annexure P-4) which shows that petitioner has passed two years Diploma in Education Part-II (Annual) is equivalent to 02 years Diploma in Elementary Education. The certificate (Annexure P-4) has been issued by Deputy Director Exam for Director Secondary Education, Haryana, and as per Annexure P-8, the diploma in education would have the same nomenclature as in 2 years Diploma in Elementary Education as the aim of elementary education is to fulfill the basic learning needs of all the children in an inclusive school environment bridging social and gender gaps with the active participation of the community. The petitioner has passed two years Diploma in Education Part-II from Government Primary Teacher Training Institute, Loharu District Bhiwani. Even if stand of respondents in the written statement that Rule of NCTE are not applicable to the State automatically but as per Annexure P-8 the elementary teacher education programme carries different nomenclatures like BTC, Diploma in education,

TTC and so on. Both the duration of training and entry qualifications of the
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course are same hence nomenclature of the course shall be same across all the states. As such, the case of the petitioner cannot be rejected only on the basis of Government of Haryana Rules, 2012. Moreover, Learned counsel for the petitioner has referred to the judgment of the Supreme Court in the case of State of U.P. and others vs. Shiv Kumar Pathak and others 2017(3) SCT 704 and Ranu Hazarika and others Vs. State of Assam and others 2011 (4) SCC 798 wherein, it has been held that NCTE guidelines are binding on the State.

In view of the above, abovesaid three writ petitions are allowed and respondents are directed to promote the petitioners as TGT Science teachers as out of 1514 posts only 202 posts has been filled up. In the present case, petitioners be given all consequential benefit from the date when their juniors have been promoted.

23.04.2019
anil

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No