
(2016) 05 P&H CK 0276
In the Punjab And Haryana At Chandigarh
Case No : LPA No. 745 of 2016 (O&M)

Bharat Bhushan & Ors.

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 11-05-2016

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2016) 3 SCT 626

Hon'ble Judges : Rajesh Bindal and Harinder Singh Sidhu, JJ.

Bench : Division Bench

Advocate : Dr. Anmol Rattan Singh Sidhu, Sr.Advocate with Gagandeep Jammu, Advocates, for the Appellant;

Final Decision : Disposed Off

Judgement

Harinder Singh Sidhu, J.—This appeal has been filed against the order dated 02.05.2016, whereby, the writ petition (CWP No.8253 of 2016) filed by the appellants seeking directions to the respondents for consideration of their case for appointment to the post of ETT Teachers as per advertisement dated 09.11.2015 (Annexure P-2) has been dismissed.

2. Respondent No. 2 issued advertisement dated 9.11.2015 (Annexure P-2) inviting applications for filling up 3533 posts of ETT Teachers which were later on increased to 4500.

The essential qualifications for the post were as under:

"(i) Matric/10+2

(ii Training/Elementary Teachers Training two year course of Punjab State or from any other State or Union Territory declared equivalent and recognised by the Punjab Government."

Apart from these educational qualifications, candidates were required to have passed the Punjab State Teacher Eligibility Test (PSTET-1) conducted by Punjab

Government as per the provisions of The Right of Children to Free and Compulsory Education Act, 2009. For the post of ETT Teachers, the last date for submission of applications was 02.12.2015. The applications were to be submitted online. Selection was to be made on the basis of marks obtained in the PSTET.

3. The appellants had appeared in the Punjab State Teachers Eligibility Test, 2015 which was conducted on 13.12.2015. The result was declared on 23.12.2015. The appellants have been successful in the test.

4. Writ petitions were filed by some candidates who appeared in the PSTET questioning the accuracy of some answer keys. Noticing ambiguity or error in some answer keys, directions were issued by the Court to the respondent Board to get the answer keys re-examined by experts, based whereon revised results were directed to be prepared. Simultaneously, directions were issued to extend the last date for submission of applications to give benefit to those who qualified in view of the revised results. Accordingly the last date had been extended by issuing public notices initially to 25.01.2016, then to 10.02.2016 and finally upto 09.04.2016.

5. The grievance of the appellants stems from the fact that they had applied for admission to the two years Elementary Teachers Training Diploma Course (ETT) for the academic sessions 2013-15. As per notification (Annexure P-1) the duration of this course was from 15.11.2013 to November 2015. However, the course commenced only in the month of January, 2014. Examination for the first year was also delayed and was conducted from 19.02.2015 to 05.03.2015. Even before the declaration of result of the first year, classes for the second year were commenced in March 2015. The result of the first year was declared in October, 2015.

6. As the advertisement dated 9.11.2015 inviting applications for the post of ETT teachers was issued , but the examinations for the second year of the ETT Course had not been conducted, some candidates pursuing this course filed CWP No.1723 of 2016 "Rajinder Singh and others v. State of Punjab and others" praying for directions to complete the course and to hold the final examination without delay. An affidavit was filed on behalf of the respondent -Board, that the examinations would commence on 29.04.2016. In view of this, the writ petition was disposed of vide order dated 22.04.2016, with the direction that the result be declared expeditiously.

7. As the result of the ETT examination had not been declared and even the extended last date of submitting the application for consideration for the post of ETT Teachers expired on 09.04.2016, the appellants filed CWP No.8253 of 2016 on 29.04.2016 claiming various reliefs namely; that the last date for accepting the applications form be further extended; that pending the declaration of their result for the ETT Examination they be provisionally permitted to participate in the selection process through counselling which is scheduled for 25.04.2016 to

4.5.2016 and that directions be issued to the respondents to declare their result forthwith.

8. Learned Single Judge dismissed the writ petition holding that the appellants had not approached the Court before the expiry of the cut- off date for submission of applications. Relying on various decisions of Hon"ble the Supreme Court it was held that the cut- off date is sacrosanct. As the appellants had not completed their two years ETT course which is an essential condition for applying for the post, hence no relief could be granted to them. The plea of parity with CWP No.133 of 2016, Jaspreet Singh and another v. State of Punjab and others wherein through an interim order dated 07.01.2016, the petitioners therein had been permitted to participate in the selection process, was rejected on the ground that in that case the petitioners had approached the Court before the cut off date which was not so in the present case.

9-10. Dr. Anmol Rattan Singh, Ld. Senior Counsel for the appellants has contended, that the ETT Course for the academic session 2013-15 was to commence on 15th November, 2013 and to conclude in November, 2015. He argued that it is entirely the fault of the authorities that the course has been delayed and the examinations were conducted only in April, 2016, by which time even the extended date for applying for the post of ETT teachers had expired. He argued that the candidates should not be made to suffer for the lapse of the authorities. He further argued that as the selection is based only on the merit of the candidates in the PSTET, no harm will be caused to any one if the appellants are permitted to appear provisionally, subject to their clearing the ETT examination which is only a condition of eligibility. He further argued that in the past in similar circumstances candidates have been provisionally permitted to appear subject to their clearing the qualifying exam. He passionately argued that it would be very harsh if the more meritorious appellants are denied participation in the selection process for no fault on their part. The last date having already been extended more than thrice no prejudice would be suffered by anyone if one more extension is granted.

11. We have seriously considered the arguments of Dr. Sidhu.

12. As per the advertisement, the last date for submission of online applications was 2.12.2015. The extensions in date thereafter made, were pursuant to directions of this Court because of correction of some anomalies in the answer keys which necessitated revision of results. The extensions of last date, were thus purely fortuitous and the appellants cannot derive any benefit of the same to contend that it would not cause any prejudice if one more extension is granted. As on 2.12.2015, which was the last date for submission of applications as per the advertisement, even the course of the appellants had not concluded. Their examination was conducted only on 27.4.2016 which is after the expiry of the extended cut off date i.e., 9.4.2016.

13. As noted by the Ld. Single Judge, it has been repeatedly held by Hon"ble the

Supreme Court that candidates who are not qualified on the cut off date do not have any right of consideration.

14. There may be any number of reasons because of which candidates who ordinarily would be expected to qualify before the cut off date fail to do so, either because the qualifying examination is not conducted in time or the declaration of results is delayed. The candidates, who on that account, miss the cut off date by a few days and thereby lose their chance to compete would rightly nurture a grudge. But, in our considered view it would introduce great uncertainty and be against the larger public interest if the sanctity of the cut off date is not maintained even in such circumstances.

Thus, we find that the *Ld. Single Judge* was perfectly justified in dismissing the petition.

Accordingly, this appeal is dismissed.

Before parting with this case, we deem it appropriate to emphasise that it is for the authorities to be alive to all situations while scheduling the recruitments and take remedial measures as may be appropriate.

Hence, it would be advisable if the authorities before advertising any post, take note of the schedule of the examinations and the results of the qualifying examinations, so that large numbers of candidates are not left out of consideration. Similarly, the examining bodies should also endeavour to ensure that the course schedule be strictly adhered to.

15. The concerned authorities would do well to remember that there are staggering numbers of educated unemployed, that Government jobs are scarce and hard to come by, and an opportunity once missed may be missed forever. Those in secure Government jobs may not fully comprehend the pain and agony of the unemployed and the hopes and expectations with which they and their families await a chance to compete for a Government job.

16. Over the ages philosophers and writers have highlighted the plight of the unemployed in moving prose, terming the situation of the unemployed as 'heartbreaking', 'a trial of which you can have no conception' or 'worse negation of life than death itself'.

17. Thomas Carlyle said:

"A man willing to work, and unable to find work, is perhaps the saddest sight that fortune's inequality exhibits under this sun."

18. Years ago, Franklin D. Roosevelt, Former President of the United States had remarked :

"Not only our future economic soundness but the very soundness of our democratic institutions depends on the determination of our Government to give employment to idle men."

19. While it is understandable that the Government may not be able to ensure a job for everyone, at least it should ensure that legitimate chance to compete ought not be snuffed out due to causes, which can be avoided, like delayed courses and delayed examinations, as this case demonstrates.
20. Copy of the order be sent to Chief Secretary, Punjab and Haryana and Home Secretary U.T., Chandigarh.