
(2013) 07 P&H CK 0473
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 18839 of 2011 (O and M)

Bindu Urmil

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 01-07-2013

Acts Referred:

Citation : (2013) 3 SCT 762

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : Harkesh Manuja, for the Appellant; Harish Rathee, D.A.G., Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Tejinder Singh Dhindsa, J.—The challenge in the instant writ petition is to the order dated 22.7.2011 (Annexure P-10) passed by the D.E.O., Panipat, whereby the claim of the petitioner seeking consideration for promotion to the post of Sanskrit Teacher, has been rejected. The other prayer is for the issuance of a Writ in the nature of Mandamus for directing the respondents to promote the petitioner to the post of Sanskrit Teacher with effect from the date private respondent no. 5 has been so promoted. The brief facts of the case are that the petitioner joined as J.B.T. Teacher on 20.2.1999. The petitioner has passed her B.A. Examination from the Kurukshetra University, Kurukshetra in April, 1999 with Sanskrit as an elective subject. Thereafter, in April, 2006 the petitioner also qualified the Prabhakar Examination from Kurukshetra University, Kurukshetra. It has been pleaded that the petitioner had submitted repeated representations to consider her case for promotion as Sanskrit Teacher but since no response was forthcoming, she was constrained to file CWP No. 22980 of 2010, which was disposed of by this Court vide order dated 22.12.2010 directing the respondents to consider and to take a final decision on her representation. It is against such factual backdrop that the impugned order dated 22.7.2011 has been passed holding the petitioner to be not eligible for promotion to the post of Sanskrit

Teacher under the statutory service rules.

2. Learned counsel for the parties have been heard at length and the pleadings on record have been perused.

3. The claim of the petitioner as regards promotion to the post of Sanskrit Teacher would require examination in the light of the statutory rules namely the Haryana State Education School Cadre (Group C) Service Rules, 1998. Under these rules the post of Sanskrit Teacher is to be filled up 25% by way of promotion from amongst the J.B.T. Teachers and C & V Teachers and 75% by direct recruitment. Yet another mode of appointment has also been recognized i.e. filling up vacancies by way of transfer or deputation of an official already in service of any State Govt. or Govt. of India. The petitioner is claiming promotion to the post of Sanskrit Teacher against the 25% quota meant for promotees from the cadre of J.B.T. Teachers. The essential/requisite qualifications in the light of Rule 7 read with Appendix "B" for promotion to the post of Sanskrit Teacher would be relevant and the same would read as follows:-

4. Learned counsel for the petitioner would contend that the petitioner fulfills the requisite qualifications prescribed under the statutory rules for being considered for promotion as Sanskrit Teacher. Counsel argues that the petitioner is a Matric from Haryana School Education Board, is J.B.T. and has got Degree of Prabhakar from Kurukshetra University, Kurukshetra. Reliance is placed upon a judgment dated 17.3.2010 passed by this Court in CWP No. 16322 of 2008 at Annexure P-4 to contend that the qualification of J.B.T. has been held to be equivalent to L.T.C/O.T. Accordingly, counsel argues that the rejection of the claim of the petitioner seeking promotion to the post of Sanskrit Teacher in the light of the impugned order dated 22.7.2011 is without any justifiable basis. Still further, parity is being sought by citing the instance of respondent no. 5, who is stated to have been appointed as J.B.T. Teacher on the same day along with the petitioner but who has been promoted as Sanskrit Teacher way back in the year 2008. Accordingly, a claim has been raised for the petitioner to be considered for promotion as Sanskrit Teacher with effect from the date respondent no. 5 was so promoted.

5. Per contra, learned State counsel would refer to the joint written statement filed on behalf of respondents no. 1 to 4 and would state that in the light of the qualifications held by the petitioner, she is eligible to be considered for promotion for the post of Hindi Teacher but not to the post of Sanskrit Teacher. In furtherance of such submission, State counsel would refer to the categorical averments contained in para 6 of the written statement, wherein it has been pleaded that the petitioner has not passed B.Ed with Sanskrit as a teaching subject. Counsel further states that in the light of the impugned order the petitioner having been held eligible to be promoted to the post of Hindi Teacher would be duly considered as per vacancy position.

6. Under the statutory rules three sets of qualifications have been prescribed for

considering a J.B.T. Teacher to be eligible for promotion to the post of Sanskrit Teacher i.e. Matric from Haryana School Education Board along with Prabhakar, B.A. (Hon''s in Sanskrit) as also LTC/OT in Sanskrit conducted by the Haryana Education Department or B.A. (Hon''s in Sanskrit) with BT/B.Ed with Sanskrit as teaching subject or B.A. with Sanskrit as an elective subject and BT/B.Ed with Sanskrit as teaching subject.

7. As per the pleaded case of the petitioner herself, she possesses the B.A. Degree with Sanskrit as an elective subject as per Annexure P-2 and has also qualified the Prabhakar (Hon''s in Hindi) as per Annexure P-3 appended with the petition. Still further, the assertion made in the written statement that the petitioner has not passed B.Ed with Sanskrit as a teaching subject has gone rebutted. Even though, as per judgment dated 17.3.2010 passed by this Court at Annexure P-4, J.B.T. has been recognized as equivalent to LTC/OT, still the petitioner does not possess Prabhakar (Hon''s in Sanskrit). Rather she has qualified Prabhakar with Hon''s in Hindi as per certificate dated 31.7.2006 issued by the Controller of Examination, Kurukshetra University, Kurukshetra (Annexure P-3).

8. As such, in the light of the 1998 Rules the petitioner while holding the post of J.B.T. Teacher would be eligible for consideration to the post of Hindi Teacher and not that of Sanskrit Teacher.

9. Even the parity that is being sought with Kusum Lata, respondent no. 5, who was promoted as Sanskrit Teacher in the year 2008 is totally misplaced. As per categoric stand taken in the written statement respondent no. 5 had also passed B.A. with Sanskrit as elective subject but thereafter qualified B.Ed with Sanskrit as a teaching subject. As such, respondent no. 5 was clearly eligible to be appointed as Sanskrit Teacher by way of promotion under the 1998 Rules.

10. For the reasons recorded above, I find no infirmity in the impugned order dated 22.7.2011 (Annexure P-10) holding the petitioner ineligible for promotion to the post of Sanskrit Teacher. Accordingly, the present writ petition is dismissed. However, it is observed that since the order dated 22.7.2011 is being upheld by this Court and in such order the petitioner has been held eligible to be considered for promotion to the post of Hindi Teacher, she shall be accorded such consideration as per the vacancy position as also strictly in accordance with law. Petition dismissed in the aforesaid terms.