

(2013) 01 P&H CK 0085
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5257 of 2011

Daya Ram and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 29-01-2013

Acts Referred:

Citation : (2013) 169 PLR 848 : (2013) 1 SCT 838

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : R.K. Malik, with Ms. Renu, for the Appellant; Harish Rathee, D.A.G., Haryana, for the Respondent

Final Decision : Allowed

Judgement

Tejinder Singh Dhindsa, J.—Learned counsel for the parties have been heard at length. The undisputed facts relating to the instant writ petition lie in a very narrow compass. The Haryana Staff Selection Commission issued advertisement No. 4 of 2009 dated 13.8.2009 advertising 9647 posts of JBT teachers. Out of such advertised posts, 223 were reserved for ex-Serviceman (General category) and 53 were reserved for ex-Serviceman BC (B) (Male) category. Petitioners No. 1, 2 and 4 belong to the ex-Serviceman (General category) and petitioner No. 3 belongs to the ex- Serviceman BC (B) category.

2. In terms of the advertisement, the qualifications that had been prescribed for the post of JBT teachers were as follows:

- i) Graduate with English as optional/elective subject.
- ii) Diploma in Education (two years course).
- iii) Certificate of having qualified School Teacher's Eligibility Test (STET).
- iv) Hindi/Sanskrit upto Metric Standard.

3. All the petitioners possess the following qualifications:

- i) have passed the 10+2 Examination;
- ii) have qualified the Unit Education Instructor Course from Army Education Course Training College and Centre, Pachmarhi (MP); and
- iii) possess the certificate in Teaching Examination from Army Education Course Training College and Centre, Pachmarhi (MP).

4. All the petitioners had applied for the post in question and have been interviewed by the respondent-Commission. The petitioners were duly selected and the candidates possessing lower merit to the petitioners have since been appointed as JBT teachers in the month of January, 2011. The present writ petition has been filed in terms of raising a grievance that the State Government has wrongfully considered the petitioners as ineligible for appointment to the post of JBT teacher.

5. The short question that would require consideration in the present writ petition is as to whether the petitioners possessing the diploma of Unit Education Instructor Course from the Army Education Corps, Pachmarhi could be treated to be holding equivalent qualification to that of the two years' JBT/Diploma in Education Course as prescribed in the advertisement?

6. The State Government even though having conceded that the petitioners had been duly selected, has taken a stand that the qualifications possessed by the petitioners are not equivalent to the ones stipulated in the advertisement for the post of JBT and towards such assertion would place reliance upon a Division Bench judgment of this Court in the case of Azad Singh and others v. State of Haryana, (Civil Writ Petition No. 8882 of 1997) decided on 8.7.1997.

7. The issue that has been raised in the present writ petition is no longer res integra. In a recent Division Bench judgment dated 5.12.2012 rendered by this Court in LPA No. 1641 of 2010 (State of Haryana and others v. Joginder Singh and others,) and other connected LPAs, this very question stands answered. Having considered the earlier Division Bench judgment in Azad Singh's case (supra), it has been held in the following terms:

10. We would like to point out here that the appellants herein had relied upon the judgment of a Division Bench in the case of Azad Singh and others State of Haryana, Civil Writ Petition No. 8882 of 1997, decided on 08.07.1997, as per which the course in question was not treated as equivalent by the State of Haryana. The learned Single Judge has remarked that in the said judgment the attention of the Division Bench was not drawn to the aforesaid material and particularly the recognition granted by the State of Madhya Pradesh. It is the submission of learned counsel for the appellants that the recognition granted by the State of Madhya Pradesh would be of no avail inasmuch as there has to be a specific orders either of the Director General, Ministry of Defence, Government of India or State of Haryana in this behalf. It is not necessary to go into this aspect any longer. As pointed out above, the Director General has now circulated the

Directory of Equation of Service Trades and guide to registration of Defence Service applicants for employment on 05.10.2012. In this Directory, the Unit Education Instructor Course is specifically treated as equivalent to "Primary School Teachers". According to us, this is the clincher and no further enquiry in this behalf is even required. Once the Director General has done the necessary exercise and has declared the aforesaid "Unit Education Instructor Course" as equivalent to "Primary School Teacher", it stands established therefrom that all these respondents who are holder of "Unit Education Instructor Course", the said qualification is to be treated as equivalent to J.B.T. Course.

11. As a result, all the appeals filed by the State of Haryana against the impugned judgment fails and are hereby dismissed. As a consequence, those respondents, who were given the appointments, their appointments cannot be terminated on this ground and they would be allowed to continue to work. Further, those who are awaiting appointment letters shall be issued appointment letters within a period of one month from today. It is made clear that those who have not been given appointments pursuant to the selection made in the year 2006, their seniority shall be reckoned from the date others were given appointments and that period shall be counted for all other purposes except that they will not be given any salary/wages for that period.

8. Accordingly, the present writ petition is allowed being covered in terms of Division Bench judgment dated 5.12.2012 in LPA No. 1641 of 2010. It is directed that the petitioners be considered as eligible for the post of JBT teacher and, accordingly, in pursuance to their selection in response to advertisement No. 4 of 2009, the petitioners shall be given appointments to the post of JBT teacher with effect from the date any candidate junior to them in the merit list determined by the Haryana staff Selection Commission may have been appointed. Upon such appointment having been effected, the petitioners are also held entitled to all other consequential benefits in the nature of seniority, continuity of service etc., but they shall not be granted the actual arrears of salary for such period. Petition allowed in the aforesaid terms.