
(2017) 03 P&H CK 0082
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 28088 of 2013 (O&M)

Prem Chand

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 01-03-2017

Acts Referred:

Constitution of India, 1950 — Article 14, Article 16

Citation : (2017) 2 SCT 519

Hon'ble Judges : P.B. Bajanthri, J.

Bench : Single Bench

Advocate : Anil Kumar Gahlawat, Advocate, for the Petitioner; Harish Rathee, Sr. DAG, Haryana, for the Respondent; Sandeep Jasuja, Advocate, for the Respondent No. 4

Final Decision : Disposed Off

Judgement

P.B. Bajanthri, J. (Oral) - In the instant writ petition, the petitioner has sought for a direction to the respondents to interview him for the post of PGT (English) and consider his name for the post of PGT (English) under category No.12 pursuant to the advertisement dated 7.6.2012 as his grievance is in terms of corrigendum vide Annexure P-4 dated 3.7.2012. The respondents have advertised for various posts of PGT on 7.6.2012. The petitioner has not submitted his application pursuant to the advertisement dated 7.6.2012 as he did not possess the qualification of HTET which is one of the requisite qualification. Some of the candidates questioned the validity of Note 2 to the advertisement dated 7.6.2012. This Court set aside Note 2 and directed the selecting authority to reconsider item No.4 to the advertisement. Thus, the official respondents have proceeded to pass the corrigendum by inserting the following eligibility clauses for various posts advertised on 7.6.2012:-

"3. Under heading "COMMON TO ALL POSTS—Eligibility" after point (b) the following point C(i) & (ii) shall be inserted, namely;-

(c) (i) The candidate who have worked as teachers for a minimum four years till 11.04.2012 in privately managed Government aided Schools, Recognized Schools and Government Schools and must be in service on 11.04.2012, in addition to being in position on the date of applying for the said post, are exempted to acquire qualifications of passing HTET/STET and B.Ed. as one time measure.

(c) (ii) A person who has passed STET/HTET without the qualification of B.Ed., before the date i.e. 11.04.2012 of notification of Service Rules concerned, shall also be considered eligible for the post of PGT as one time measure in the first recruitment.

4. Transitional provision:- Person fulfilling conditions of qualifications as per old Rules of Haryana State Education Lecturer School Cadre (Group-C) Service Rules, 1998 shall also eligible for recruitment as onetime measure. Provided that such person shall have to qualify the Haryana Teachers Eligibility Test (HTET) and B.Ed. By 1st April, 2015 and if he fails to do so, his appointment shall stand terminated automatically without giving any further notice."

2. Learned counsel for the petitioner submitted that having regard to the corrigendum dated 3.7.2012, petitioner would be eligible for making an application to the post of PGT (English), therefore, his candidature is required to be considered. It was further submitted that pursuant to the corrigendum dated 3.7.2012, it was bounden duty of the respondents to renotify the post inviting applications as per the eligible candidates with reference to existing requisite qualification read with the transitional provision vide corrigendum dated 3.7.2012. In not doing so, the petitioner's right has been taken away for the purpose of selection and appointment to the post of PGT (English) pursuant to the advertisement dated 7.6.2012. Hence, he is entitled for selection and appointment to the post of PGT (English) pursuant to the advertisement dated 7.6.2012 read with the corrigendum dated 3.7.2012.

3. On the other hand, learned counsel for the respondents submitted that the transitional provision in the corrigendum dated 3.7.2012 in particularly item No.3 and 4 relates only to in-service candidates. The petitioner is not an in-service candidate. Therefore, the corrigendum is not applicable to the petitioner's case.

4. Heard learned counsel for the parties.

5. The petitioner's grievance that his candidature is required to be taken into consideration with reference to notification dated 7.6.2012 read with the corrigendum dated 3.7.2012 is concerned it is to be noted that on 7.6.2012 when the post of PGT (English) was notified admittedly, petitioner was not eligible with reference to HTET qualification. Thus, the petitioner felt that he is not eligible candidate so as to make an application. By virtue of corrigendum issued on 3.7.2012, petitioner's right has accrued that is to the extent that he fulfills the requisite qualification for the post of PGT (English). Since there is an exemption for passing HTET examination and for passing such examination time has been extended upto 1.4.2015 pursuant to the corrigendum dated 3.7.2012.

Thus, a right has been created in favour of the petitioner to apply for the post of PGT (English) as a candidate. If the petitioner's contention is to be accepted, the petitioner should have sought for quashing the entire selection process and further readvertising the post. The petitioner's candidature alone cannot be considered for the post of PGT (English) for the reasons that by virtue of corrigendum in particularly para 4 which relaxes the qualification of HTET to such of those candidates who do not fulfill the HTET qualification upto 1.4.2015. If the petitioner's case alone is required to be considered for candidature then it violates Articles 14 and 16 for the reasons that similarly situated persons like the petitioner who have the qualification of M.A. B.Ed. and not HTET qualification, such of those candidates would be denied the right to participate in the process of selection. Therefore, the petitioner has not made out a case so as to consider his candidature alone for the post of PGT (English) with reference to corrigendum. At the same time, the respondent-selecting authority should have resorted to re-advertise with reference to para 4 of the corrigendum by which certain qualification has been relaxed in the middle of the process of selection so as to invite application from the eligible candidates pursuant to the para 4 of the corrigendum which extended the date of passing of HTET