
(2012) 10 RAJ CK 0073
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10182 of 2012

Smt. Raj Rani

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 10-10-2012

Acts Referred:

Right of Children to Free and Compulsory Education Act, 2009 — Section 23, 4

Citation : (2012) 4 WLN 224

Hon'ble Judges : Gopal Krishan Vyas, J

Bench : Single Bench

Advocate : R.S. Saluja, Mr. P.S. Bhati, Mr. Kuldeep Mathur, Mr. C.P. Trivedi, Mr. Awar Dan Charan, Mr. Hanuman Singh Choudhary, Mr. Himmat Jagga and Ms. Aruna Negi, for the Appellant; G.R. Poonia, A.A.G. with in Mr. Mahendra Choudhary, Dy. Govt. Counsel, for the Respondent

Final Decision : Allowed

Judgement

Mr. Justice Gopal Krishan Vyas, J.—In all the above writ petitions, the controversy involved is identical, therefore, all these cases are decided by this common order and, for the sake of convenience, facts of S.B. Civil Writ Petition No. 10182/2012 are taken into consideration. As per facts narrated in S.B. Civil Writ Petition No. 10182/2012, Smt. Raj Rani Vs. State of Rajasthan & Others, the petitioner after completing her graduation in Commerce with 44.44% marks from Maharshi Dayanand Saraswati University, Ajmer in the year 2001 acquired the qualification of post-graduation in Hindi (Arts) subject from the University of Bikaner in the year 2008. In her M.A. (Hindi) examination the petitioner obtained 58.22% marks. The petitioner's husband died, therefore, with a view to enabling herself for earning livelihood and for betterment of her children, the petitioner acquired B.Ed. degree from the University of Kashmir, Srinagar in the year 2009. After completion of B.Ed. course, the petitioner appeared in the Rajasthan TET Examination 2011, conducted by the Board of Secondary Education, Ajmer, in which, the petitioner was declared eligible for appearing in Level I and Level II examinations.

2. Respondent No. 2 Zila Parishad issued advertisement on 24.02.2012 for recruitment on the posts of Teacher Grade-III, in which, being eligible the petitioner applied for the post of Teacher Grade-III under the reserved quota for the widows. In the examination, the petitioner secured 104.11 marks and was hopeful for getting appointment but the petitioner was shocked when she came across the list pasted and displayed at the notice-board of Zila Parishad, Sriganganagar on 09.09.2012, in which, her name did not find mention whereas the cut-off marks for the widow category was 104.11. Upon enquiry, it was informed that she has not obtained minimum 45% marks in her graduation examination, therefore, her name was not included in the merit-list.

3. As per the petitioner, in the PTET examination held in 2008 for admission in the B.Ed. course, minimum 45% marks was prescribed to appear in the examination, therefore, the petitioner took up B.Ed. course training at the University of Kashmir, Srinagar and, thereafter, on that basis, the petitioner was permitted to appear in the Rajasthan TET Examination. Respondent No. 2 issued an advertisement and guidelines for appearing in the qualifying examination of Teacher Grade-II, in which, the petitioner submitted her application which was duly scrutinized and, thereafter, while issuing the admission-card she was allowed to appear in the said examination for recruitment on the posts of Teacher Grade-III, in which, she secured 104.11 marks.

4. The petitioner has set out the case that as per advertisement para 7(5) which provides for relaxation in terms of the Division Bench judgment of this Court dated 20., rendered in D.B. Civil Writ Petition No. 3964/2011, Sushil Sompura & others Vs. State (Education) & Others but the respondents have wrongly interpreted the judgment of this Court while denying appointment to the petitioner. It is pointed out by the petitioner in the writ petition that apparently failing to understand the judgment in proper perspective the respondents have not complied with the full direction contained in the operative part of the judgment and refused to grant relaxation of marks in the minimum marks obtained in the graduation examination. Submission of the petitioner is that the Division Bench of this Court, in the aforesaid judgment, categorically held that respondents shall not insist upon qualification of having minimum 45% or 50%, as the case may be, in the bachelor's degree or master's degree examination or any other equivalent examination in case the incumbents have obtained admission in the requisite courses such as B.A., B.Com., B.Sc., B.Ed., B.El.Ed., Senior Secondary etc. prior to prescription of the minimum qualifying marks by the NCTE vide notifications dated 27.09.2007 and 31.08.2009, therefore, denial of appointment to the petitioner on the ground that she did not obtain 45% marks in her graduation examination is totally contrary to the judgment of this Court in Sushil Sompura's case (supra) and para 7(5) of the advertisement dated 24.02.2012, Annex.-6.

5. Similarly, it is pointed out that vide para 7(3) of the advertisement Annex.-6, there is clear provision to grant relaxation of 5% to the reserved category

candidates including Widow in the B.Ed. examination. As per the petitioner, the respondents have wrongly not included the category of Widow in para 7(3) of the advertisement, therefore, the denial of appointment to the petitioner and like persons is contrary to the judgment rendered by the Division Bench of this Court in Sushil Sompura's case, so also, in violation of para 7(5) of the advertisement.

6. Learned counsel for the petitioner (respective counsel for petitioners in aforesaid writ petitions) vehemently argued that denial of appointment on the ground of having less than 45% marks is contrary to the judgment of the Division Bench of this Court in Sushil Sompura's case (supra) and as per notification issued by the NCTE on 29.07.2011, in which, relaxation up to 5% in the qualifying marks was allowed to the candidates belonging to the reserved categories, therefore, direction may be issued to the respondents not to insist upon minimum 45% marks in graduation/post graduation examination and grant relaxation up to 5% as provided in the notification dated 29.07.2011 and as per the judgment of the Division Bench of this Court in Sushil Sompura's case because vide amendment notification dated 11.05.2011, the State Government amended Rule 266 of the Rajasthan Panchayati Raj Rules 1996 and prescribed qualification for appointment on the post of Teacher Grade-III (General Education) (Level-I and Level-II), so also, for Primary and Upper Primary Teachers in Special Education (Level-I and Level-II) and provided that qualification for the post will be as laid down by the NCTE under the provisions of sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 from time to time. Therefore, it is prayed that respondents may be directed to comply with the directions issued by the Division Bench of this Court in Sushil Sompura's case and relaxation provided under para 7 (5) and para 7 (3) of the advertisement and as per qualification laid down by the NCTE vide notification dated 29.07.2011 and not to refuse appointment on the ground of having less than 45% marks in the graduation examination; and, further, grant 5% relaxation in the qualifying marks to the candidates belonging to the reserved categories including Widow and, after considering their candidature, if they are found entitled for appointment, then, appointment may be provided to them on the posts of Teacher Grade-III (Level-I and Level-II).

7. Per contra, learned Addl. Advocate General vehemently argued that there is nothing in the argument of learned counsel appearing for the petitioners in these writ petitions that they are entitled for any relaxation in the qualification because the State Government is under obligation to follow the rules and in Rule 266 of the Rules of 1996 necessary amendment was made and it is specifically provided that qualification laid down by the NCTE for recruitment on the posts of Teacher Grade-III will be followed and to comply with the directions issued by the Division Bench of this Court in Sushil Sompura's case a specific para 7(5) was added in the advertisement dated 24.02.2012 and it is specifically provided that all those candidates who took admission in the Teachers Training courses prior to issuance of the notification by the NCTE on 27.09.2011 the condition of obtaining minimum 45% marks will not be insisted upon. Therefore, although the

petitioners belong to reserved class category, they cannot claim relaxation more than provided in the notification issued by the NCTE which is incorporated in the advertisement dated 24.02.2012. In this view of the matter, there is no force in the argument of the petitioner that respondents are illegally insisting upon minimum 45% marks in the graduation examination. Accordingly all these writ petitions may be dismissed.

8. After hearing learned counsel for the parties, I have perused the entire writ petition and also considered the provisions of relevant law.

9. There are two issues involved in all the above writ petitions:

(1) Whether the reserved class candidates are entitled for relaxation of marks up to 5% in view of the amendment made vide notification dated 29.07.2011 whereby in para 3(2) relaxation up to 5% in the qualifying marks has been allowed to the candidates belonging to the reserved categories such as SC, ST, OBC, Physically Handicapped ?

(2) Whether the respondents can insist upon having 45% and/or 50% marks in B.A., B.Com, B.Sc., B.El.Ed., Senior Secondary B.Com., B.Sc., B.Ed., B.El.Ed., Senior Secondary etc. for those candidates who took admission prior to issuance of notifications dated 27.9.2007 and 31.8.2009 so as to get eligibility for appointment on the post of Teacher Grade-III after the judgment rendered by the Division Bench of this Court in Sushil Sompura's case (supra) ?

10. For deciding the above issues, it is required to peruse the Act enacted by the Parliament of India known as the Right of Children to Free and Compulsory Education Act, 2009, in which, under sub-section (1) of Section 23, powers are conferred to the National Council for Teachers Education to lay down qualification for Teacher Grade-III. The NCTE issued notification on 23.08.2010 while exercising powers conferred by sub-section (1) of Section 23 of the Act of 2009. The said notification is as follows :

NATIONAL COUNCIL FOR TEACHER EDUCATION

NOTIFICATION

New Delhi, the 23rd August, 2010

F. No. 61-03/20/2010/NCTE(N & S).- In exercise of the powers conferred by Sub-section (1) of Section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009), and in pursuance of Notification No. S.O. 750 (E) dated 31st March, 2010 issued by the Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, the National Council for Teacher Education (NCTE), hereby lays down the following minimum qualifications for a person to be eligible for appointment as a teacher in class I to VIII in a school referred to in clause (n) of Section 2 of the Right of Children to Free and Compulsory Education Act, 2009, with effect from the date of this Notification:-

1. Minimum Qualifications:-

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations, 2002.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

AND

(b) Pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(ii) Classes VI-VIII

(a) B.A./B.Sc and 2-year Diploma in Elementary Education (by whatever name known)

OR

B.A./B.Sc with at least 50% marks and 1-year Bachelor in Education (B.Ed.)

OR

B.A./B.Sc with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year B.A./B.Sc. Ed. or B.A. Ed./B.Sc. Ed.

OR

B.A./B.Sc with at least 50% marks and 1-year B.Ed. (Special Education)

AND

(b) Pass in Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

Diploma/Degree Course in Teacher Education.- For the purpose of this Notification, a diploma/degree course in teacher education recognized by the National Council for Teacher Education (NCTE) only shall be considered. However, in case of Diploma in Education (Special) Education) and B.Ed (Special Education), a course recognized by the Rehabilitation Council of India (RCI) only shall be considered.

3. Training to be undergone:-A person-

(a) with B.A./B.Sc with at least 50% marks and B.Ed. qualification shall also be eligible for appointment for Class I to V upto 1st January, 2012 provided he undergoes, after appointment, an NCTE recognized 6-month special programme in Elementary Education.

(b) with D.Ed. (Special Education) or B.Ed. (Special Education) qualification shall undergo, after appointment, an NCTE recognized 6-month Special Programme in Elementary Education.

4. Teacher appointed before the date of this Notification.-The following categories of teachers appointed for Classes I to VIII prior to date of this Notification need not acquire the minimum qualification specified in Para (1) above,:

(a) A teacher appointed on or after the 3rd September, 2001, i.e. the date on which the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time) came into force, in accordance with that Regulation.

Provided that a teacher of class I to V possessing B.Ed qualification, or a teacher possessing B.Ed (Special Education) or D.Ed (Special Education) qualification shall undergo an NCTE recognized 6-month special programme on elementary education.

(b) A Teacher of class I to V with B.Ed qualification who has completed a 6-month Special Basic Teacher Course (Special BTC) approved by the NCTE;

(c) A teacher appointed before the 3rd September, 2001, in accordance with the prevalent Recruitment Rules.

5. Teacher appointed after the date of this notification in certain cases:-Where an appropriate Government, or local authority or a school has issued an advertisement to initiate the process of appointment of teachers prior to the date of this Notification, such appointments may be made in accordance with the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in

Schools) Regulations, 2001 (as amended from time to time).

11. Thereafter, another notification was issued whereby certain amendments were made by the NCTE on 29.07.2011. Notification dated 29.07.2011 reads as under :

NATIONAL COUNCIL FOR TEACHER EDUCATION

NOTIFICATION

New Delhi, the 29th July, 2011

F. No. 61-1/2011/NCTE/N&S).-In exercise of the powers conferred by sub-section (1) of the Section 23 of Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009) and in pursuance of the Notification No. S.O. 750(E) dated 31st March, 2010 issued by the Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, the National Council for Teacher Education (NCTE) hereby makes the following amendments to the Notification No. 215 dated 25th August, 2010 published in the Gazette of India, Extraordinary, Part-III, Section-4, vide F. No. 61-1/2011-NCTE (N&S), dated the 23rd August, 2010, laying down the minimum qualifications for a person to be eligible for appointment as a teacher (hereby referred to as the Principal Notification), namely:-

(I) For sub-para (i) of para 1 of the Principal Notification, the following shall be substituted, namely:-

1. Minimum Qualifications:-

(i) Classes I-V

(a) Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Elementary Education (by whatever name known)

OR

Senior Secondary (or its equivalent) with at least 45% marks and 2-year Diploma in Elementary Education (by whatever name known), in accordance with the NCTE (Recognition Norms and Procedure), Regulations, 2002.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor of Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 2-year Diploma in Education (Special Education)

OR

Graduation and two year Diploma in Elementary Education (by whatever name

known)

AND

(b) pass in the Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(II) For sub-para (ii) of para 1 of the Principal Notification, the following shall be substituted, namely:-

1. (ii) Classes VI-VIII

(a) Graduation and 2-year Diploma in Elementary Education (by whatever name known)

OR

Graduation with at 50% marks and 1-year Bachelor in Education (B.Ed.)

OR

Graduation with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard.

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year Bachelor in Elementary Education (B.El.Ed.)

OR

Senior Secondary (or its equivalent) with at least 50% marks and 4-year B.A./B.Sc. Ed. or B.A. Ed./B.Sc. Ed.

OR

Graduation with at least 50% marks and 1-year B.Ed. (Special Education)

AND

(b) Pass in Teacher Eligibility Test (TET), to be conducted by the appropriate Government in accordance with the Guidelines framed by the NCTE for the purpose.

(III) For para 3 of the Principal Notification the following shall be substituted, namely:-

(i) Training to be undergone:-A person-

(a) with Graduation with at least 50% marks and B.Ed. qualification or with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to

time in this regard shall also be eligible for appointment to Class I to V up to 1st January, 2012, provided he/she undergoes, after appointment, an NCTE recognized 6-month Special Programme in Elementary Education;

(b) with D.Ed. (Special Education) or B.Ed. (Special Education) qualification shall undergo, after appointment an NCTE recognized 6-month Special Programme in Elementary Education.

(ii) Reservation Policy :

Relaxation up to 5% in the qualifying marks shall be allowed to the candidates belonging to reserved categories, such as SC/ST/OBC/PH.

(IV) For para 5 of the Principal Notification, the following shall be substituted, namely:-

5. (a) Teacher appointed after the date of this notification in certain cases:- Where an appropriate Government or local authority or a school has issued an advertisement to initiate the process of appointment of teachers prior to the date of this Notification, such appointments may be made in accordance with the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (as amended from time to time).

(b) The minimum qualification norms referred to in this Notification apply to teachers of Languages, Social Studies, Mathematics, Science, etc. In respect of teachers for Physical Education, the minimum qualification norms for Physical Education teachers referred to in NCTE Regulation dated 3rd November, 2001 (as amended from time to time) shall be applicable. For teachers of Art Education, Craft Education, Home Science, Work Education, etc. the existing eligibility norms prescribed by the State Governments and other school managements shall be applicable till such time the NCTE lays down the minimum qualifications in respect of such teachers.

12. It is worthwhile to observe that before issuance of notification dated 29.07.2011, the State Government amended the Rules of 1996 vide notification dated 11.05.2011, in which, it is prescribed that qualification laid down by the NCTE for the post of Teacher Grade-III shall be followed and on the basis of said amendment, the Division Bench of this Court adjudicated the controversy in D.B. Civil Writ Petition No. 3964/2011, Sushil Sompura & Others Vs. State of Rajasthan & Others, decided along with 43 other writ petitions vide judgment dated 20.05.2011. The Division Bench of this Court while considering the amendment for prescribing the qualification for appointment on the posts of Teacher Grade-III (Level-I and Level-II) made by the State Government in Rule 266 of the Rules of 1996 and notification dated 23.8.2011 adjudicated the question for granting eligibility to the candidates of TET for appointment on the posts of Teacher Grade III, Level-I and Level-II :

For the reasons stated above, the interim stay is vacated. The respondents are free to hold the TET examination. The prayer of the petitioners regarding

inclusion of qualification of B.Com. in the group of qualification of graduation in the eligibility criteria has already been allowed. The respondents shall not insist on the qualification of having 45% or 50% marks, as the case may be, in the Bachelor's degree or master's degree etc. or any other equivalent qualification, in case incumbents have obtained admission in the requisite courses such as B.A., B.Com., B.SC., B.Ed., B.El.Ed, Senior Secondary etc. prior to prescription of the minimum qualifying marks by NCTE vide notifications dated 27.9.2007 and 31.8.2009. It is made clear that the incumbents, who have obtained the B.Ed. Etc. before the minimum qualifications were prescribed vide notifications dated 27.9.2007 and 31.8.2009, shall be allowed to appear in the TET examination. The incumbents, who have passed out B.Ed. Course from Jammu & Kashmir, have to be dealt with on similar yard sticks in case the qualification is otherwise recognized. Let NCTE specify categories of teachers under para 4 of Notification dated 23.8.2010. As prayed by NCTE, let amended notification be issued within one month covering aforesaid aspects.

13. It is worthwhile to observe that Division Bench of this Court in case of Sushil Sompura (supra) held that respondents shall not insist on the qualification of having 45% or 50% marks, as the case may be, in the Bachelor's degree or master's degree etc. or any other equivalent qualification, in case incumbents have obtained admission in the requisite courses such as B.A., B.Com., B.SC., B.Ed., B.El.Ed, Senior Secondary etc. prior to prescription of the minimum qualifying marks by NCTE vide notifications dated 27.9.2007 and 31.8.2009 to allow the candidates to appear in TET Examination. Meaning thereby, to acquire TET qualification, which is eligibility condition for the appointment on the post of Teacher Grade-III, Level-I and Level-II. The Division Bench of this Court held that all the candidates who obtained admission in the requisite course such as B.A., B.Com., B.SC., B.Ed. and Bachelors of Elementary Education, Senior Secondary are entitled to acquire the qualification of TET, even if, the minimum percentage of marks is prescribed, by the NCTE vide notifications dated 27.9.2007 and 31.8.2009, therefore, the respondent State cannot snatch the right of consideration for appointment of those candidates in view of adjudication made by Division Bench of this Court in Sushil Sompura's case (supra). After the judgment of Sushil Sompura's case, the NCTE again made amendment, therefore, the State government proceeded to initiate proceedings of appointment on the post of Teacher Grade III and issued advertisement on 24.2.2012 in all the Districts of Rajasthan in which Para 7(3) and para 7(5) were incorporated in the advertisement which reads as under:

14. Upon perusal of the notification dated 29.07.2011, it is revealed that in para 3. II relaxation was granted to the candidates of reserved category up to 5% in the qualifying marks to the candidates belong to reserved category such as SC, ST, OBC and physically handicapped was allowed. Therefore, purposely while issuing notification para 7(3) was incorporated in the advertisement dated 24.02.2012 so as to grant relaxation. Similarly, in pursuance of the directions given by this Court in Sushil Sompura's case (supra), para 7(5) was incorporated

but, out of two dates of notification viz., 27.09.2007 and 31.08.2009, the reference has been made for notification dated 27.09.2007 only.

15. Upon perusal of the notification dated 29.07.2011, it is abundantly clear that in para 3, it was specifically prescribed that with Graduation with at least 50% marks and B.Ed. qualification or with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard shall also be eligible for appointment but in para 3(II), it is specifically provided that relaxation up to 5% shall be allowed to candidates belonging to the reserved categories such as SC, ST, OBC and physically handicapped. Therefore, in the advertisement dated 24.02.2012, para 7(3) was incorporated so as to grant 5% relaxation in the qualification prescribed in para 7(1) and 7(2).

16. Therefore, in my opinion, the reserved class candidates are very much entitled for relaxation of 5% in the qualification for appointment on the post of Teacher Grade-III (Level I and Level II). Similarly, in the case of Sushil Sompura, the Division Bench of this Court specifically gave direction that the respondents shall not insist on the qualification of having 45% or 50% marks, as the case may be, in the bachelor's degree or master's degree etc. or any other equivalent qualification, in case incumbents have obtained admission in the requisite courses such as B.A., B. Com., B. Sc., B. Ed., B.El.Ed, Senior Secondary etc. prior to prescription of the minimum qualifying marks by NCTE vide notifications dated 27.9.2007 and 31.8.2009 to appear in the TET examination; meaning thereby, on the one hand while incorporating para 7(5) in the advertisement dated 24.02.2012 the respondent State complied with the verdict of Division Bench of this Court but, in fact, the said benefit is not extended to the candidates who took admission prior to 27.09.2007 and 31.08.2009 and again respondents refused to consider the candidature of those candidates who got admission in qualification of B.A., B.Com., B.Sc., B.Ed.Ed., Sr. Secondary prior to 27.09.2007 and 31.08.2009.

17. In view of the above discussion, this Court is of the considered opinion that the respondents are under obligation to provide relaxation of 5% to the reserved class categories including "Widow and Divorced" women because the intention of amended notification dated 29.07.2011 issued by the NCTE is to grant relaxation up to 5% to the reserved class categories and to consider their cases for appointment on the posts of Teacher Grade-III as per marks obtained by them in the competitive examination conducted in all the districts of Rajasthan by the respondents for appointment on the posts of Teacher Grade-III (Level-I and Level-II). Similarly, in pursuance of the adjudication made by the Division Bench of this Court in Sushil Sompura's case (supra), in which, the Division Bench allowed all those candidates to appear in the Teachers' Eligibility Test conducted by the Board of Secondary Education who got admission prior to issuance of notification dated 27.09.2007 and 31.08.2009 in the courses such as B.A., B.Com, B.Sc., B.El.Ed., Sr. Secondary it is held that the respondents are under

obligation not to insist upon those candidates to have minimum 45%/50% marks in Bachelor's degree or Master's degree for recruitment on the post of Teacher Grade-III for the reason that once the Division Bench of this Court held that those candidates are eligible to appear in the TET examination which is eligibility of appointment on the post of Teacher Grade-III, then, obviously they become eligible for recruitment on the post of Teacher Grade-III and for them the respondent State cannot insist upon having minimum 45% and/or 50% marks. In view of foregoing discussion, all these writ petitions are allowed. The respondents are directed to consider the candidature of all those candidates without insisting upon qualification of having minimum 45% or 50%, as the case may be, in the bachelor's degree or master's degree examination or any other equivalent examination in case the incumbents have obtained admission in the requisite courses such as B.A., B.Com., B.Sc., B.Ed., B.El.Ed., Senior Secondary etc. prior to prescription of the minimum qualifying marks by the NCTE vide notifications dated 27.09.2007 and 31.08.2009; and, if they are found in merit in the competitive examination for recruitment on the posts of Teacher Grade-III (Level-I and Level-II), they shall be provided appointment.