

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.

CWP No. 17467 of 2010  
Date of decision 13.7.2011

Ritesh Dutta and others . Petitioners

Versus

State of Haryana and others .. Respondents.

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR  
HON'BLE MR. JUSTICE GURDEV SINGH

Present: Mr.Vikas Kuthiala Advocate for the petitioners  
Mr. Vinod S. Bhardwaj, Addl. AG Hy. for respondents 1 and 2

1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in the Digest ?

M.M.KUMAR, J.

1. The petitioners who have been working as Guest Faculty Teachers have approached this Court by filing the instant petition under Article 226 of the Constitution with a prayer for quashing notifications dated 30.8.2010 (P.5) and 17.9.2010 (P.6). The respondent has clarified by the impugned notifications that the Guest Teachers possessing the qualification of B.A./B.Ed were not to report for verification of documents and interview for appointment to the post of JBT teachers because they were not eligible. It is appropriate to mention that the Haryana Staff Selection Commission issued an advertisement No.4 of 2009 on 13.8.2009 for filling up 9647 posts of JBT Teachers. The petitioners being B.A./B.Ed applied for the post. The qualifications prescribed for appointment to the post of JBT teachers is:

- (a) Graduate with English as one of the optional/ elective

subjects;

b) Diploma in Education Training Course (two years duration)

c) Certificate of having qualified School "Teacher's Eligibility Test (STET)

d) Hindi/Sanskrit upto matric level.

2. There are statutory rules governing the service conditions of JBT Teachers known as Haryana Primary Education (Group C) District Cadre Service Rules, 1994. According to the written statement the qualifications prior to 10.2.2010 for the post of JBT teachers were:

a) Graduate with English as one of the optional/ elective subjects. However, the individuals who have already done JBT after 10+2 have been made eligible for a period of two years and they were required to pass graduation within a period of five years;

b) should have passed two years Junior Basic Training Course of Diploma-in Education Training course from Haryana Education Department or its equivalent as recognized by the Haryana Government with special training in child psychology and behavior of child upto the age of 12 years; and

c) knowledge of Hindi upto matric standard.

It was further made clear in the rules that preference was to be given to candidates who possess knowledge of URDU upto Middle Standard for posts of Junior Basic Trained Teachers for Mewat area and if such candidates are selected they they were to serve only in Mewat area. The qualification of graduation with English has been amended to 10+2 vide notification dated 10.2.2010 and the

requirement now is 10+2.

3. The respondents have placed reliance on Note (i) of the Regulation 6 of the National Council of Teachers Education (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001. According to the respondents Basic Teachers Training Course of two years duration is required for appointment of teachers for primary classes and that B.Ed is not a substitute for Basic Teachers Training. It is not disputed that petitioners do not possess the qualification of JBT or Diploma in Education. Accordingly they lack basic qualification for the post. It may be true that they possess qualification of B.A/B.Ed and M.A./M.Ed. The emphasis laid down by the respondents is that lack of study of training in child psychology and behavior of child upto the age of 12 years would make the petitioners ineligible because the aforesaid qualification is so essential that children cannot be placed in the hands of any person who is not aware how to tackle the children upto the age of 12 years.

4. We have heard learned counsel for the parties and have perused the record with their able assistance.

5. At the outset the respondents have placed reliance on a Division Bench judgement of this Court rendered in the case of Jyoti v. State of Haryana (CWP No. 14983 of 2007) decided on 10.12.2007. The Division Bench has held that qualification of B.Ed cannot be considered equivalent to that of JBT. The candidates who have acquired JBT qualification have specialized training obviously to tackle the children. To be aware of child psychology and behavior of child upto the age of 12 years it is extremely important and without proper training it is not possible to

place the children in the hands of those who might have higher degree like B.Ed or M.A./ M.Ed etc. The Division Bench placed reliance on a judgement of Hon'ble the Supreme Court rendered in the case of Dalip Kumar Ghosh and others v. Chairman and others 2005(4) SCT 332.

6. A similar question came up for consideration before another Division Bench of this Court. While disposing of bunch of petitions in the case titled as Jagjit Singh v. State of Punjab and others (CWP No. 19603 of 2006 decided on 16.12.2008) the Division Bench refused to recognise one degree equivalent to another and observed that there was a fundamental distinction between the teachers who are trained to impart education at the elementary/ primary level and those of at the secondary / Higher secondary level as professional qualifications were different at different levels. One degree could not be compared with the other. In the judgement, the Division Bench placed reliance on the observations made by Hon'ble the Supreme Court in the case of P.M.Latha v. State of Kerala (2003) 3 SCC 541 and Yogesh Kumar v. Government of NCT (2003) 3 SCC 548. In both the aforesaid judgements, argument that B.Ed qualification is higher qualification than the qualification of Teachers Training qualification meant for primary teachers was rejected and in para 10 of the judgement in P.M.Lath's case (supra), it has been observed as under:

“ “10. We find absolutely no force in the argument advanced by the respondents that B.Ed qualification is a higher qualification than TTC and therefore, the Bed candidates should be held to be eligible to compete for the post. On behalf of the applicants, it is pointed out before us that Trained Teacher's Certificate is given to teachers specially trained to teach small children in

primary classes whereas for B.Ed degree, the training imparted is to teach students of classes above primary. B.Ed degree holders, therefore, cannot necessarily be held to be holding qualification suitable for appointment as teachers in primary schools. Whether for a particular post, the source of recruitment should be from the candidates with TTC qualification or B.Ed qualification, is a matter of recruitment policy. We find sufficient logic and justification in the State prescribing qualification for the post of primary teachers as only TTC and not Bed. Whether B,Ed qualification can also be prescribed for primary teachers is a question to be considered by the authorities concerned but we cannot consider B.Ed candidates, for the present vacancies advertised. As eligible.”

7. Even otherwise, we are of the considered view that it is not for the courts to undertake an exercise of equating one qualification with the other. The issue does not call for detailed consideration because it was settled more than three decades ago by the Constitution Bench of Hon’ble the Supreme Court in the case of **Mohammad Shujat Ali v. Union of India, (1975) 3 SCC 76**. On the issue of equation of qualification it has been laid down in para 13 of the judgment that the subject of equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standards. It involves practical attainments of such qualifications and the experts are required to aid in deciding the issue. The state also keep an eye on the number of students allowed to acquire a particular qualification which may have co-relationship with the number of post available for that qualification. If

courts start interfering the whole arrangement is turned topsy-turvey. The court being not an expert and armed with relevant data and un-aided by technical insights necessary for the purpose of determining equivalence, would not undertake such a task unless it emanates from mala fide, extraneous considerations or so irrational or perverse that a reasonable person would not accept the same. Similar view has been expressed in a recent judgment by Hon'ble the Supreme Court in the case of **State of Rajasthan v. Lata Arun, (2002) 6 SCC 252**, wherein it has been held that prescribing minimum educational qualification for admission to a course and recognising certain educational qualification as equivalent to or higher than the prescribed one, involves a policy decision to be taken by the State Government or the authority vested with the power under any statute. Discussing the scope of interference by the courts, it has been further laid down in para 10 that there is a limited scope to interfere by the courts which could examine whether the policy decision or the administrative order dealing with the matter is based on a fair, rationale and reasonable ground or such a decision is arbitrary and is not informed by extraneous consideration or mala fide intention. Mere fact that the petitioners in these petitions had applied and were interviewed would not arm them with any right in view of the aforementioned legal principles.

8. It is further appropriate to mention that the aforesaid view has been taken by a Full Bench of this Court in the case of Som Dutt v. State of Haryana 1983(3) SLR 141.

9. In the present case, the respondents have rightly placed reliance on Note 1 under Regulation 6 of 2001 Regulations. According to the aforesaid Regulation of the National Council of Teachers Education for

appointment of teacher for primary classes, Basic Teachers Training Programme of two years duration is necessary. B.Ed is no substitute for such a course. In the absence of necessary qualification with the petitioners there is no possibility of finding any fault with the impugned notifications dated 30.8.2010 (P.5) and 17.9.2010 (P.6). The petition does not merit admission. Accordingly the writ petition is devoid of merit and the same is hereby dismissed.

(M.M.Kumar)  
Judge

13 .7 .2011

(Gurdev Singh)  
Judge

okg