

(2012) 12 P&H CK 0149

High Court Of Punjab And Haryana At Chandigarh

Case No: LPA No. 1641, 1111, 1167, 1256, 1265 and 1330 of 2010 and L.P.A. No. 548, 1322, 1351, 1442 and 1800 of 2011

State of Haryana and Others

APPELLANT

Vs

Joginder Singh and Others

RESPONDENT

Date of Decision: Dec. 5, 2012

Citation: (2013) 1 SCT 90

Hon'ble Judges: A.K. Sikri, C.J; Rakesh Kumar Jain, J

Bench: Division Bench

Advocate: B.S. Rana, A.A.G., Haryana, Mr. G.K. Chatrath, with Ms. Alka Chatrath in LPA Nos. 1322 of 2011 and 1351 of 2011 in LPA No. 1167, 1256, 1265 and 1641 of 2010 and 1800 of 2011, Dr. Surya Parkash, in LPA No. 1111 and 1167 of 2010, Mr. Ravi Verma, in LPA No. 1442 of 2011 and Mr. Vikas Chatrath, in LPA No. 1330 of 2010 and in LPA No. 548 of 2011, for the Appellant;

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

A.K. Sikri, C.J.

Delay condoned. By this order, we propose to dispose of these 11 appeals as the common question of law and facts are involved therein. For brevity, the facts are taken from Letters Patent Appeal No. 1641 of 2010.

2. In all these appeals, the controversy is as to whether "Unit Education Instructor Course" which is undertaken by the respondents herein from the Army Educational Corps Training College and Centre, Panchmarhi, can be treated to be equivalent to the J.B.T. Teachers so as to hold the respondents eligible for appointment as J.B.T. Teachers in the State of Haryana. All the respondents had applied for the posts of J.B.T. teachers in the State of Haryana and were selected. Some of them were allowed to join initially but thereafter their services were sought to be terminated by the State/appellant on the ground that the aforesaid course is not equivalent to the

J.B.T. course recognized by the Haryana Government. Some other respondents, who were selected and yet to be given appointments, were denied these appointments. These respondents filed the writ petitions which have been allowed by the learned Single Judge holding the aforesaid course undertaken by the respondents as equivalent to the J.B.T. course.

3. For better understanding of the matter, we would, in the first instance, like to reproduce the clauses prescribed for appointments/selection as J.B.T. teacher in the Haryana Primary Education (Group-C) District Cadre Service Rules, 1994. These are as under:-

i) Graduate with English as one of the option/elective subject. Provided that individuals who have already done J.B.T. after 10+2 will be eligible for a period of two years. Such 10+2 individuals, if recruitee, shall be required to comply with the condition of passing graduation within a period of five years.

ii) Passed two years Junior Basic Training Course or Diploma-in-Education Training Course from Haryana Education Department or its equivalent recognized by the Haryana Government with special training in child psychology and behavior of child up to the age of 12 years.

iii) Knowledge of Hindi up to Matric.

4. From the nature of the controversy already spelt out above, it is clear that the issue pertains to qualification prescribed in Para No. (ii) above, which makes a person eligible for this post if he/she has possessed two years Junior Basic Training Course or Diploma-in-Education Training Course from Haryana Education Department or its equivalent recognized by the Haryana Government with special training in child psychology and behavior of child up to the age of 12 years. As the respondents have not passed any such J.B.T. course from Haryana Education Department, therefore, entire reliance is upon the equivalent qualification contained in the aforesaid provision. The learned Single Judge in the impugned judgment has discussed this aspect in very great detail holding it to be equivalent.

5. After hearing learned counsel for the parties, we are of the opinion that the view taken by the learned Single Judge is correct in law. We would, however, like to state our reasons in support of this view in brief hereinafter.

6. It is a matter of common knowledge that the Government of India has framed a policy of reservation to the Ex-Servicemen to rehabilitate after retirement. Those Ex-Servicemen who possess the required qualification are absorbed against the prescribed posts on civilian side after they quit the military service. Since the qualifications or service trades of these military personnels" bear different nomenclature as against the civilian service trades, the Government of India undertakes necessary exercise for equating of service trades of the military with that of the civilian trades. A Directory of Equation of Service Trades and Guide to

Registration of Defence Service applicants for employment is published from time to time by the Director General, Ministry of Defence, Government of India. It is a conceded position that this equation published in the said Directory is accepted by the State Government as well. The last Directory for this purpose was published in the year 1986 and thereafter another Directory is published recently only on 05.10.2012. In the last Directory, which was published in the year 1986, the "Unit Education Instructor Course" was not specifically mentioned. The course which was mentioned was A.E.C. Instructor (Group-X or Y) and was treated as equivalent to Primary School Teacher. Thus, a person serving in Army who was AEC Instructor (Group X or Y) and who was holding 10+2 qualification with Diploma in Teaching or 10th with Art in teaching was treated equivalent to Primary School Teacher. The learned Single Judge found that in the absence of such equivalence of this particular trade namely Unit Education Instructor (UEI), the solution was to be found elsewhere. It is pointed out in the impugned judgment that the State of Haryana had issued instructions on 15.09.1988 pertaining to giving recognition to Military Qualification (Military Trades) as equivalent to the civil trades, as enshrined in the "booklet" for the purpose of recruitment to civil posts. The instructions issued read as under:-

I am directed to invite yours attention, on the subject noted above, and to say that the matter of treating military trades as equivalent to civil-trades, for the purpose of appointment in civil posts, was under consideration of the Haryana Govt. for some time, and after consideration the Govt. has decided that the trades of all ex-servicemen in different forces would be considered as equivalent of civil jobs as mentioned in the booklet for the purposes of appointment in civil posts.

7. The learned Single Judge also referred to instructions dated 18.03.1975 issued by the State of Haryana regarding recognition of qualification for appointment and the relevant portion whereof is as under: -

ii) The degrees and diplomas etc. issued by the recognized Universities and High/Higher Secondary Board established by the State shall be recognized ipso-facto.

8. Based upon these instructions, it is opined that since the course undertaken by the writ petitioners (now respondents) at training college has been declared equivalent to J.B.T. certificate by the Madhya Pradesh Government, it will be treated as equivalent to J.B.T. for the purpose of appointment in the State of Haryana as well.

9. 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 v. 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.

10. 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. However, the Letters Patent Appeals No. 548 of 2011, 1322 of 2011 and 1351 of 2011 preferred by those candidates, whose writ petitions were dismissed by the learned Single Judge vide impugned orders dated 25.05.2009, 18.11.2010 and 20.10.2009, stand allowed and these three appellants shall also be entitled to appointment letters as we have been informed that large number of posts reserved for Ex-Servicemen still exists.