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Order No.05/1-2020RD(1)/ 2024/138228

Dated:- 05.6.2024

Speaking Order related to the recruitment of 2364 posts of ETT

Teachers advertised vide Advertisement dated 06-3-2020.

This order is being passed in due compliance of order dated 19.12.2023 passed in LPA No. 1898 of 2023 titled as Raman Kumar and Others Vs State of Punjab and others arising out of order dated 08.11.2021 passed in CWP No. 3363 of 2021 and other connected petitions. The relevant part of order dated 08.11.2021 is being reproduced as under:-

"38. As a result thereof, there is no option except to allow the present writ petitions.

39. Consequently, the writ petitions are allowed; advertisement dated 06.03.2020 containing the impugned selection criteria along with entire selection process, including provisional merit list for recruitment to the posts of 2364 ETT are quashed and set aside.

Subsequently, the Department preferred a Review Petition RA-CW 38 of 2021 and some private petitioners also filed RA No. 331 of 2021 against the above said order dated 08.11.2021. The Hon'ble High Court vide order dated 20.10.2023 dismissed both the Review Petitions.

Aggrieved from this some petitioners of the writ petitions filed an LPA 1898 of 2023 titled as Raman Kumar and others Vs State of Punjab and others. The Hon'ble High Court vide order dated 19.12.2023 Allowed the said LPA. The relevant part of the order is being reproduced as under:-

"This appeal is directed against the judgement and order dated 08.11.2021 passed by the learned Single Judge allowing the writ petition filed by the petitioners (respondents No. 4 to 21 herein) quashing and setting aside the advertisement dated 06.03.2020 containing the impugned selection criteria alongwith entire selection process including provisional merit list for recruitment to 2364 posts of Elementary Trained Teachers (in short ETT) as also against an order dated 20.10.2023 dismissing RA-CW-331-2021 seeking review of the judgement and order dated 08.11.2021.

Learned counsel appearing for respondents No. 4 to 161, out of whom respondents No. 4 to 21 herein were the writ petitioners in CWP-3363-2021, states that he has instructions to withdraw the writ petition itself and the said writ petitioners do not want to challenge the criteria for appointment to 2364 posts of ETT Teachers.

Learned State counsel, on instructions from Mr. Harpreet Singh, Assistant Director, Education Recruitment Directorate, Punjab, states that the entire selection process is completed and the final result will be declared after eight weeks in terms of the original advertisement which was the subject matter of the writ petition and the present appeal.


Keeping in view of the above statement made by learned State counsel and Mr. Arjun Shukla, learned counsel appearing for respondents No. 4 to 161, no cause of action survives in the writ petition itself

The present appeal is allowed and the judgement and order dated 08.11.2021 as well as the order dated 20.10.2023 passed by the learned Single Judge are set aside as both the parties are not disputing the criteria laid down in the advertisement for selection to 2364 posts of ETT Teachers."

Subsequently, while implementing of the above said order passed in LPA and in view of Orders passed in the said SLP's, the department faced some legal issues to ponder upon, as a consequence to redress these issues the department filed Clarification/Misc. Applications Nos. 1117, 1128 of 2024 seeking clarification from the Hon'ble Division bench of the Hon'ble High Court regarding the applicability of these Hon'ble Supreme Court judgments on the advertisement issued on 06.03.2020, however, these CM's were dismissed by the Hon'ble Court vide order dated 15.03.2024.

Consequently, with regard to the above said findings of the Hon'ble High Court, the Department sought opinion of the office of Advocate General, Punjab. The said office tendered its opinion dated 30.05.2024. Subsequently, in view of the facts on the official file of the department and on perusal of the opinion from the Advocate General, the department has decided as under:-

1. *The corrigendums dated 20.10.2020 and 11.10.2020 shall be implemented, being issued in continuation of advertisement dated 06.03.2020.*
2. *The weightage of 2/3/5 marks for higher qualification as mentioned in advertisement shall not be granted to the candidates as there is no provision in the Rules governing this recruitment as well as this issue was not raised and adjudicated after order dated 08.11.2021 in any subsequent LPA/Appeal. .*
3. *One mark for each year of experience shall be granted to the candidates, which will be applicable upto to 10 years of experience only.*
4. *The candidates appointed prior to 23.08.2010, shall be exempted from Punjab State Teachers Eligibility Test.*

 Apart from above, the Advocate General Office, opined the consideration of B.Ed. pass candidates for the posts of E.T.T. as per NCTE notification dated 28.06.2018, the Hon'ble Supreme Court vide it's Judgment dated 11.08.2023 passed in SLP (C) No. 20743 of 2021 titled as Devesh

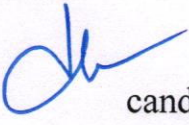
Sharma Versus Union of India and others quashed notification dated 28.06.2018. The relevant part of the order is as under:-

“37. Consequently, the Appeals are dismissed and the judgement dated 25.11.2021 of the Rajasthan High Court is upheld. The notification dated 28.06.2018 is hereby quashed and set aside. The Writ Petitions and all pending applications stand disposed of in light of the above order.”

In view of the above said order of the Hon'ble Supreme Court, the B.Ed candidates are not liable to be considered for selection/appointment.

That similarly, it is also opined that the consideration of 18 months Diploma in Elementary Education (for short, “D.El.Ed.”) conducted through the Open and Distance Learning (for short, ‘ODL’) mode in elementary education by the National Institute of Open Schooling as valid. Earlier, such candidates were considered eligible for the post of E.T.T. However, now, Hon’ble Supreme Court of India in it’s Judgment dated 11.08.2023 passed in SLP (C) no. 23583-84 of 2022 titled as Jaiveer Singh and others Versus State of Uttarakhand and others allowed the appeals by passing the following order:-

41. In view of what has been held by this Court here in above, we find that the High Court erred in holding that 18 months Diploma conducted by NIOS through ODL mode is equivalent to the 2 years regular Diploma, particularly so, when there was no material placed on record to even remotely hold that such a qualification was recommended by the Expert Body NCTE. On the contrary, the communication dated 6th September, 2019 of NCTE, the directives of MHRD so also the recognition order dated 22nd September 2017 clearly go on to show that the 18 months Diploma was provided as a onetime window to the in-service teachers to acquire the minimum qualifications between the 2017 Amendment Act and the outer limit of 1st April 2019. In our considered view, the High Court has totally erred in holding that the 2 years Diploma is equivalent to 18 months Diploma.”

 In view of the above said order of the Hon'ble Supreme Court, the candidates having 18 months Diploma/D.El.Ed from NIOS are not liable to be considered for selection/appointment.

Accordingly, in view of law settled by Hon'ble Supreme Court of India in 2 above mentioned SLPs, and the Legal Opinion dated 30.05.2024, the candidates having B.Ed. qualification instead of two years ETT Diploma Course pass will not be considered for the post of ETT Teachers as per

advertisement dated 06.03.2020. Similarly, 18 months Diploma in Elementary Education (for short, "D.El.Ed.") conducted through the Open and Distance Learning (for short, 'ODL') mode in elementary education by the National Institute of Open Schooling will not be considered in view of the Judgment dated 11.08.2023 passed in SLP (C) no. 23583-84 of 2022. However, order dated 08.04.2024, passed by the Hon'ble Supreme Court in Misc. Application No. 4303 of 2024 has no effect on this recruitment as there is no appointment done under this recruitment till date.

That the Office of Ld. Advocate General, Punjab has further opined that the merit list of remaining eligible candidates may be prepared by excluding the B.Ed candidates and candidates having 18 months Diploma through Open Distance Learning, as per advertisement dated 06.03.2020 including all corrigendum's issued upto 17.11.2020 and by not giving 2/3/5 marks of higher education to any candidate.

Accordingly, this Speaking Order is being passed for the information of General Public that the Department is going to implement the above said parameters in the recruitment of 2364 posts of ETT Cadre advertised vide advertisement dated 06.03.2020. In view of the above position, the Education Recruitment Directorate is hereby directed to proceed further in the light of this order to declare result and prepare selection list of the 2364 posts of ETT Cadre before 09.07.2024 which is the date fixed for hearing in COCP No. 1317 of 2024 in order to avoid any adverse inference by the Hon'ble Court in the said COCP.

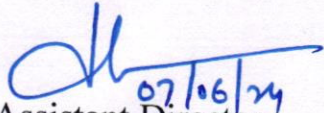
Secretary to Government of Punjab
Department of School Education.

Endst. No. 2024/38229-30

Dated: SAS Nagar :- 07.06.2024

Copy is forwarded to the following for information.

1. P.A. to Secretary School Education, Punjab.
2. P.A. to Director, Education Recruitment Directorate, Punjab.


07/06/24
Assistant Director
Education Recruitment Directorate
Punjab.