

**2023 STPL(WEB) 29 SC
SUPREME COURT OF INDIA**

(KRISHNA MURARI AND SANJAY KUMAR JJ.)

NEERAJ KUMAR & ANR.

Petitioners

VERSUS

STATE OF HARYANA & ORS.

Respondents

Review Petition (C) No. 154 of 2022 In Civil Appeal No. 7031 of 2021 (@ Special Leave Petition (C) No. 8670 of 2007) With Review Petition (C) No. 373 of 2022 Review Petition (C) No. 449 of 2022 Review Petition (C) No. 450 of 2022 review Petition (C) No. 452 of 2022 incivil Appeal No. 7031 of 2021 (@ Special Leave Petition (C) No. 8670 of 2007)-Decided on 3-7-2023

Service Law - Equivalence of qualifications – Dispute ends as State Government accepted Petitioners qualification at par with required qualification

JUDGMENT

Sanjay Kumar, J.-A recruitment process initiated in the year 2006 is still hanging fire. The Punjab & Haryana High Court allowed CWP No. 20630 of 2006 relating thereto, titled ‘Suman Lata and others vs. The State of Haryana and others’, by order dated 22.02.2007. However, by judgment dated 24.11.2021, this Court allowed Civil Appeal No. 7031 of 2021, titled ‘Devender Bhaskar & others vs. State of Haryana & others’, and set aside the aforesaid order dated 22.02.2007. This Court held that equivalence of qualifications is a matter for the State, as the recruiting authority, to determine. This observation was made in the context of the High Court’s finding that the Diploma in Art & Craft of Kurukshetra University was equivalent to the Diploma in Art & Craft of Haryana Industrial Training Department.

2. Review of the above judgment dated 24.11.2021 is sought by way of the present petitions. The review petitioners, 404 in all, secured Diplomas in Art & Craft from Kurukshetra University and are aggrieved by the finding of non-equivalence of their qualification with the Diploma in Art & Craft of the Haryana Industrial Training Department. The petitions for review are granted and the matter reheard at length.

3. Advertisement No.6/2006 was issued on 20.07.2006 by the Haryana Staff Selection Commission for filling up 816 posts of Art & Craft Teachers in the State of Haryana. The eligibility criteria prescribed therefor included, inter alia, a 2-year Diploma in Art & Craft conducted by the Haryana Industrial Training Department or an equivalent qualification, recognized by the Haryana Education Department. Controversy arose vis-à-vis this eligibility condition as the Director, School Education, Haryana, issued letter dated 12.12.2006 intimating that the Diploma in Art & Craft conducted by the Director, Industrial Training and Vocational Education, Haryana, was the only recognized course in the State of Haryana and that the Diploma in Art & Craft from Kurukshetra University and other Universities was not recognized for the purpose of appointment to the post of Art & Craft Teacher in the State of Haryana. It was this communication that was challenged before the Punjab & Haryana High Court in a batch of writ petitions, leading to the aforesaid order dated 22.02.2007 holding that the 2-year Diploma in Art & Craft offered by the Kurukshetra University had already been recognized by the State of Haryana in 1999 and that the impugned communication dated 12.12.2006 did not disclose any policy decision to the contrary. However, as stated supra, this Court reversed the said verdict, vide the judgment dated 24.11.2021.

4. Be it noted that, aggrieved by the action of the authorities in not entertaining their applications on the ground that they had secured Diplomas from Kurukshetra University, a number of prospective candidates had filed writ petitions before the Punjab & Haryana High Court and interim orders were passed therein permitting such persons to provisionally participate in the selection conducted by the Haryana Staff Selection Commission. While so, the selection held pursuant to Advertisement No. 6/2006 was quashed by a learned Judge of the Punjab & Haryana High Court, vide judgment dated 20.02.2015 in CWP No. 18482 of 2020. The same stood confirmed in LPA No. 359 of 2015, when it was dismissed by a Division Bench on 10.10.2020. Special Leave Petition (C) No. 14481 of 2020 filed before this Court against these decisions was also dismissed on 14.12.2020. Pursuant thereto, a fresh selection was held, resulting in the selection list dated 14.11.2021, communicated by the Haryana Staff Selection Commission to the Director General, Elementary Education, Haryana, under letter dated 17.11.2021. This list indicated that 756 candidates stood selected and 64 candidates were waitlisted. In all, 820 candidates found place therein. Out of these 820 candidates, 613 of the selected candidates and 54 candidates in the waiting list held Diplomas from Kurukshetra University. On 04.03.2022, the Haryana Staff Selection Commission recommended the appointment of only 153 candidates out of the 820 candidates, as the remaining 667 candidates possessed Diplomas from Kurukshetra University. After this Court allowed Civil Appeal No. 7031 of 2021 by judgment dated 24.11.2021, a batch of writ petitions came to be filed before the Punjab & Haryana High Court once again. These cases were disposed of by the High Court, vide order dated 09.11.2022 in CWP No. 24339 of 2021 and batch, titled 'Manoj Kumar & others vs. State of Haryana & others', whereby the authorities were directed to complete the selection process within a time frame, subject to the result of these review petitions pending before this Court. Pursuant to the said direction, the Haryana Staff Selection Commission addressed letter dated 27.12.2022 recommending 178 candidates for appointment. These candidates possessed Diplomas in Art & Craft from the Haryana Industrial Training Department and other institutions and not from Kurukshetra University. In effect, 331 appointments were made, leaving 485 of the 816 notified posts vacant.

5. Other candidates who stood similarly situated to the review petitioners filed implead applications in Review Petition (C) No.154 of 2022, seeking to come on record therein so as to protect their own interests. Those who are identically placed with the review petitioners, in terms of having Diplomas in Art & Craft from Kurukshetra University and were included in the selection list dated 14.11.2021, would be entitled to intervene in Review Petition (C) No.154 of 2022. In consequence, I.A. (D) Nos. 196076 & 196077 of 2022; 8739 & 8740 of 2023; 17023 & 17026 of 2023; 111065 of 2022; 130553 of 2022; 8258 & 8260 of 2023; 19545 & 19550 of 2023; 139476 & 139479 of 2022; 95282 & 95284 of 2023; 93137 & 99544 of 2023; 91498 & 91500 of 2023; 93761 & 93763 of 2023; 96084 & 96087 of 2023; 96504 & 96505 of 2023; 96609 & 92193 of 2023; 106169 & 106171 of 2023; 106374 & 106375 of 2023; and 165801 & 165805 of 2022 are allowed and the applicants therein, 102 in all, are brought on record. However, insofar as three of the applicants in I.A. No. 95284 of 2023 are concerned, viz., Urmila Devi, Suman Lata and Jyoti, their results are yet to be declared and, as of now, they do not find mention in the selection list dated 14.11.2021. So too is the case with Vivek Kumar, the applicant in I.A. (D) No. 106171 of 2023. They would be entitled to relief, if any, subject to declaration of their results and their securing a place in the selection list.

6. Similar applications were filed in Review Petition No. 450 of 2022 by candidates identically situated to the review petitioners therein. In consequence, I.A. (D) Nos. 95410 & 99854 of 2023 are allowed and the 37 applicants therein are brought on record. I.A. No. 131988 of 2022 was filed by the review petitioners in Review Petition No. 450 of 2022 seeking to implead Kurukshetra University, Haryana, as a party respondent. However, in the light of the stand now taken by the Government of Haryana, the I.A. is rendered otiose and is accordingly rejected.

7. Candidates who did not pass either the selection examination or the interview and did not figure in the selection list dated 14.11.2021 cannot now seek to be placed on par with those who were either selected or waitlisted therein. They would, therefore, not be entitled to intervene in the review petitions and seek relief, be it by asking for relaxation or reduction of the pass marks in the selection

examination or interview. I.A. (D) Nos. 95450 & 95452 of 2023; 95458 of 2023; 106402 & 106403; and 101791 of 2023 in Review Petition (C) No. 154 of 2022 are dismissed. I.A. (D) No.84254 of 2023 in Review Petition (C) No. 154 of 2022 is dismissed in so far as Applicant No.14 therein is concerned. Applicant Nos. 1 to 13 also filed I.A. (D) Nos. 93707 & 95065 of 2023, which are considered hereunder.

8. Those thirteen candidates were appointed pursuant to the second recommendation letter dated 27.12.2022 of the Haryana Staff Selection Commission and filed I.A (D) Nos. 93707 & 95065 of 2023 seeking to be impleaded in Review Petition (C) No. 154 of 2022. As they have a vital interest in the outcome of the review petition, their applications are allowed and they are brought on record. However, respondent Nos. 324, 328, 329, 334, 338, 358, 373 and 380 in Review Petition (C) No.154 of 2022, who held the prescribed Diploma in Art & Craft from the Haryana Industrial Training Department, failed to qualify in the selection process. They, therefore, cannot seek any relief from this Court.

9. In so far as the merits of these review petitions are concerned, it may be noted that pursuant to the order dated 16.05.1999 passed by the Punjab & Haryana High Court in CWP No. 16320 of 1996, titled 'Ram Bhagat & others vs. State of Haryana & others', the Government of Haryana had constituted a Committee to go into the issue of equivalence and recognition of Examinations/ Degrees/Diplomas/Certificates awarded by Institutions other than Universities established by law or by Deemed Universities. Accepting the report of the Committee, the Financial Commissioner & Secretary to Government, Education Department, Haryana, addressed letter dated 02.11.1999 to other authorities in the State informing them that it had been decided that the Degrees/Diplomas/ Certificates/Examinations of Kurukshetra University, amongst others, would be recognized in the State of Haryana for admission and recruitment purposes. It was in the light of this policy decision that the Punjab & Haryana High Court set aside the later communication dated 12.12.2006, stating to the contrary.

10. While so, it is now the admitted position that the Government of Haryana is willing to accept the Diploma in Art & Craft from Kurukshetra University as an equivalent qualification to the Diploma in Art & Craft secured from Haryana Industrial Training Department. It appears that the Director, Elementary Education, Haryana, addressed letter dated 23.01.2023 to Kurukshetra University seeking a clarification regarding the equivalence of these qualifications. Reference was made therein to the letter dated 08.12.2021 issued by the Kurukshetra University, certifying that the Art & Craft Diploma offered by it was equivalent for all purposes to the Art & Craft course conducted by the ITI, Haryana. In response thereto, the Kurukshetra University addressed letter dated 31.01.2023, stating that a Standing Committee was constituted to examine the matter of equivalence and, pursuant to its deliberations in the meeting held on 08.12.2021, the Committee recommended that both the courses be treated as equivalent for all purposes. This recommendation was made after comparing the syllabus and finding that both courses were of equal standard in terms of content, credit requirements and attainment level. It was approved by the Vice-Chancellor of the Kurukshetra University and the same was, accordingly, informed to the Director, Elementary Education, Haryana.

11. That apart, letter dated 19.05.2023 addressed by the Director, Elementary Education, Haryana, to Mr. Lokesh Sinhal, learned Senior Additional Advocate General, Haryana, is placed on record and it reads as follows:

‘From

Director, Elementary Education, Haryana, Shiksha Sadan, Sector 5, Panchkula.

To

Sh. Lokesh Sinhal, Senior Additional Advocate General, Haryana, Supreme Court of India, New Delhi

Memo. No. 17/140-2022 TGT R&A(4) Dated, Panchkula, the 18.05.2023

Subject: -Review Petition No. 154 of 2022 titled Neeraj Kumar & Anr. Versus State of Haryana & Ors. and connected Review Petitions in Civil Appeal No. 7031 of 2021.

Respected Sir,

In reference to your Email dated 16.05.2023 & 17.05.2023, it is submitted that the Government has given permission/one time relaxation to convert 178 posts of TGT Art to the post of Art & Craft Teacher (Diminishing Cadre), so that all the review petitioners and effected person having Diploma from Kurukshetra University, Kurukshetra (i.e. 667 candidates) who were in the first select list dated 17.11.2021 sent by HSSC can be accommodated without effecting any person who has already been appointed (including 178 candidates appointed conditionally vide order dated 09.11.2022 passed by Hon'ble Punjab & Haryana High Court in CWP No. 24339 of 2021). The above said decision taken by the Government not to be treated as precedent.

Hence, it is requested to apprise above said facts before the Hon'ble Court during the course of hearing of the case.

Sd/-
18/5/23

Joint Director, TGT R&A
for Director Elementary Educational
Haryana, Panchkula'

12. The above communication manifests that the Government of Haryana is now ready to accommodate and appoint candidates with Diplomas in Art & Craft from Kurukshetra University, who were found meritorious and were included in the selection list dated 14.11.2021, without adversely affecting the 178 candidates who were conditionally appointed pursuant to the directions of the Punjab & Haryana High Court. As it is no longer in issue that the Diplomas in Art & Craft secured from Kurukshetra University by the 667 candidates in the selection list dated 14.11.2021 stand on par with the Diploma in Art & Craft from Haryana Industrial Training Department, there would be no hindrance to their being considered for appointment and this Court is not required to venture into the equivalence of these qualifications. However, such appointments would now have to be made against the 663 notified vacant posts that would be available, as the 178 appointees are being treated as distinct and separate. These 178 appointees would have to be excluded from the count of the notified posts under Advertisement No. 6/2006 as they were converted as Art & Craft Teachers (Diminishing Cadre). Appointments to be made pursuant to this judgment would have to be limited to the vacant posts notified under Advertisement No.6/2006 and cannot be extended to later vacancies which have arisen thereafter. Further, the appointing authority would have to strictly go by the merit ranking in the selection list dated 14.11.2021 while making appointments to these available notified vacancies without disturbing the appointments already made or the seniority of such appointees, irrespective of whether or not such appointees found mention in the selection list dated 14.11.2021 and if they did, their merit ranking therein. This is because the review petitioners and others identically situated are now being accommodated and appointed, despite the long lapse of time since the inception of this recruitment process, and more particularly, as those who were appointed have already put in significant length of regular service prior to the belated entry of the new appointees into regular service at this stage. The entire exercise pursuant to this judgment shall be completed by the authorities concerned expeditiously and, in any event, not later than two months from the date of receipt of a copy of this judgment.

The review petitions are disposed of accordingly.

Other pending I.A.s shall also stand disposed of.

In the circumstances, there shall be no order as to costs.
