

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. _____ OF 2022

@ SPECIAL LEAVE PETITION (C)

OF 2022 @ Diary No(s).25269 of 2022

VIKAS KUMAR & ORS.

...Appellant (s)

VERSUS

THE STATE OF HARYANA & ORS.

...Respondent(s)

WITH

CIVIL APPEAL NO. _____ OF 2022

@ SPECIAL LEAVE PETITION (C)

OF 2022 @ Diary No(s). 25446/2022

WITH

CIVIL APPEAL NO. _____ OF 2022

@ SPECIAL LEAVE PETITION (C)

OF 2022 @ Diary No(s).19617/2017

AND WITH

CIVIL APPEAL NO. _____ OF 2022

@ SPECIAL LEAVE PETITION (C)

OF 2022 @ Diary No(s). 28161/2022

ORDER

1. Permission to file special leave petitions is/are granted wherever prayed.
2. Leave granted in all the matters.
3. In the course of hearing, it has been submitted by the learned senior counsel appearing for the parties jointly that (i) SLP (C) No. 19617/2017, (ii) SLP (C) Diary No. 18777/2017 and SLP (C) Diary No.

28161/2022 are also directly connected with the 2012 selection of PRT issues of which we are hearing in the present proceedings.

4. On such joint prayer, we take these three appeals on board along with the present appeals and dispose of the same with consent of the counsels for the parties.

5. Heard, learned senior counsel/counsel appearing for the contesting candidates on both sides as also the submissions made on behalf of the State of Haryana. It is the say of learned counsel for the State of Haryana that there are more than 1389 vacancies of primary teachers and for the purpose of running efficient primary educational system in the State of Haryana, the State requires qualified teachers and the State as such is more than willing to accommodate the qualified candidates, details of which are discussed hereinafter.

6. This order is being passed with the consent of the learned counsels appearing for all the parties in all the matters. It is an order with consent and as such would be binding on all the parties to the proceedings. No further dispute is to be entertained with respect to seniority or claims of arrears for the periods the parties getting benefit of employment under this order for any earlier period during which they have not worked. However, if any of the candidate has actually worked, which work is duly and physically verified, the salary would

be paid as admissible under the law for the said period if not already paid.

7. Since the present appeals are being disposed of by consent, we are briefly recording the facts.

8. Teachers Eligibility Test (TET) has been laid down by the NCTE to be a mandatory qualification for being appointed as a primary school teacher. The State of Haryana on 11.04.2012 notified Haryana Primary Education (Group-C) District Cadre Service Rules 2012 and made Haryana Teachers Eligibility Test (HTET) mandatory. Haryana School Teachers Selection Board (HSTSB) on 08.11.2012 issued public notice inviting applications for filling up 9870 vacancies for the post of Primary Reserve Teacher (PRT). Last date for submitting application form was 08.12.2012.

9. As apparently in the year 2012 HTET was not held, a group of aspiring candidates approached the High Court to permit them to participate provisionally in the selection process. These candidates later appeared in the HTET conducted in June 2013 and were successful. An interim order was passed on 23.10.2013 in CWP No. 346 of 2013, Antim Kumari vs State of Haryana.

10. In the meantime, the Board issued a public notice on 15.11.2013 extending the time limit for submitting the application form, pursuant

to the notification dated 08.11.2012. Under the said public notice applications could be submitted during the period 19.11.2013 to 29.11.2013.

11. The Board declared the results on 14.08.2014 of 9455 candidates with a rider that the same would be subject to final order in Antim Kumari. The results of the candidates of Antim Kumari were kept in a sealed cover.

12. While the hearing of the case of Antim Kumari was going on, the Secretary of the concerned Department communicated to the learned Advocate General vide letter dated 20.04.2015 that as the State of Haryana has enough vacancies of PRTs and as the teaching was suffering, it may accommodate the competing claims of Writ Petitioners. On 29.04.2015, the High Court delivered the judgment in the case of Antim Kumari, in which three sets of candidates were carved out. We are concerned with the first set of candidates only. Under this set, the candidates had qualified HTET held in June 2013. With respect to this set, the High Court disposed of the petitions on the statement of the learned Advocate General that they may be considered on their merits.

13. On 13.07.2015, result of Antim Kumari candidates, who had qualified HTET in June 2013 was declared. A total number of 2233

candidates were recommended. This would take the total selected candidates to be 11688 (9455+2233).

14. The second and third set of candidates referred to in the judgment of Antim Kumari, who had not been granted any relief assailed the correctness of the judgment dated 29.04.2015 before this Court but were unsuccessful. The SLPs were dismissed by this Court. It may also be noted that the wait-listed candidates of the original list declared on 14.08.2014 also approached this Court but later on withdrew their SLP.

15. A wait-listed candidate Meenakshi Malik and others filed CWP No.11796 of 2015 claiming preferential right over the first set candidates of Antim Kumari's judgment on the ground that they possessed HTET on the cut-off date i.e. 08.12.2012.

16. In the said petition, the State filed an affidavit stating that there were 16,254 vacancies for the post of PRT across the State of Haryana. This petition was disposed of by the High Court vide order dated 08.01.2016 with a direction that wait-listed applicants and selected candidates be accommodated.

17. One Naresh Kumar an unsuccessful candidate filed CWP No.20046 of 2014 alleging tampering in the result dated 14.08.2014. The said petition was dismissed vide order dated 31.03.2016 after

considering the report and the analysis made by the Forensic Science Laboratory. Apparently, no tampering was found. The order dated 31.03.2016 was carried in appeal bearing LPA No.686 of 2016 by one Pradeep Kumar in which an interim order was passed permitting the State Government to fill up the posts of PRTs barring 54 posts for the petitioners therein.

18. On 27.04.2017, the State Government issued an order to fill up the posts only from the first list of successful candidates declared on 14.08.2014 and not from the joint merit list. The successful candidates from the first list were appointed in the light of this Government Order.

19. Another interim order was passed on 08.05.2017 by the Division Bench in the LPA No.686 of 2016, filed by Pradeep Kumar directing the State to prepare a joint merit list and also to identify total candidates eligible for appointments. It also restricted the appointments to the number of advertised posts and the same to remain subject to the final outcome of the appeal.

20. The present appellants are the beneficiary of the interim order dated 08.05.2017.

21. The order dated 08.05.2017 was assailed before this Court by one Dhalvinder Kaur by way of an SLP registered as SLP (C) Diary

No.18777 of 2017. This Court on 28th July, 2017 issued notices and directed that any appointments made would be subject to outcome of the said SLP.

22. In August, 2021, State applied for early hearing of the pending matters before the Division Bench of the High Court. It also requested the High Court to allow 2,233 candidates, who had qualified the HTET in 2013 to be given additional appointments and treat them as part of the advertisement.

23. The Division Bench vide judgment dated 28.07.2022 disposed of the pending appeals. It denied any benefits to the 2,233 candidates, who had qualified HTET in 2013. It further held that no appointments could be made beyond the advertised number of posts i.e. 9870 and further directed that appointments to be made on the basis of the merit list and wait-list dated 14.08.2014. It is this judgment which is under challenge before us in SLP(C) Diary No.25269 of 2022.

24. From the above, it is apparent that there are three sets of candidates before us claiming themselves to be duly eligible and to be appointed as PRT. The first set is of the candidates declared successful in the result dated 14.08.2014, who had qualified HTET prior to the last date i.e. 08.12.2012 for submitting applications under the advertisement dated 08.11.2012 but have been displaced by the

candidates who qualified HTET in the exam of June, 2013. The second set is of the wait listed candidates notified by the same result dated 14.08.2014 and who had also qualified the HTET prior to the cut-off date i.e. 08.12.2012. The third set is of 2,233 candidates who have qualified HTET in the examination held in June, 2013 i.e. after the cut-off date but are claiming to be higher in merit than the last selected candidates in the merit list of 14.08.2014. The claim of the 3rd set is based on the strength of the Public Notice dated 15.11.2013.

25. As of date, a number of successful candidates from the list of 14.08.2014, who are appointed in 2017, are out of service due to interim order dated 08.05.2017 and out of 2,233 candidates who qualified HTET in 2013 are working displacing the above candidates sometimes in 2019 after the interim order dated 08.05.2017.

26. The 2nd set of candidates were placed in the wait-list of the result dated 14.08.2014 and have pressed their claim on the ground that they possess the eligibility and would have preferential claim over the 2,233 candidates who had qualified HTET much after the cut-off date. According to them, the 3rd set were not eligible to be selected as they did not possess the qualifications.

27. Shri Anil Grover, Sr. Addl. Advocate General appearing for the State of Haryana during the course of the hearing took instructions

and made a statement before the Court that the State is ready and willing to accommodate all the three categories of candidates. He has also given a communication dated 13.09.2022 duly signed by the Director of Elementary Education, Haryana detailing the vacancies as on 31.07.2022, which reads as follows:

*“Sri Anil Grover
Sr. Additional Advocate General, Haryana
Supreme Court of India.
Memo No.16/53-2016 PRT (ART)(1)
Dated, Panchkula 13.09.2022*

Subject: SLP (C) Diary No.25269 of 2022 and 25446/2022.

The following data for kind consideration of Hon’ble Supreme Court of India:-

1. *Total vacancies of PRTs/JBTs as on 31.07.2022 (as per rationalization) are 1389 approx.*
2. *Total number of candidates of fist list including waiting list candidates that would become eligible after the implementation of judgment dated 20.07.2022 in LPA No.912 of 2016 are 1326 approx.*
3. *Total number of teachers to be promoted in near future to TGTs from PRTs/C&Vs are 7551 approx.*

*(Dr. Anshaj Singh, IAS)
Director Elementary Education Haryana
Panchkula.”*

28. In the above facts and circumstances and taking into consideration the stand of the State of Haryana as communicated by its learned counsel, we are of the view that in the present case this litigation of more than a decade could be put to a quietus and the mammoth exercise of holding the selections for 9870 posts in the year

2012 be given its full benefit. We pass the following order:

(i) The total number of advertised posts i.e. 9870 to be filled up first from the selected candidates declared in the result dated 14.08.2014.

(ii) In the event, the selected candidates from the above category do not join, then the remaining vacancies shall be filled up from the list of wait-listed candidates declared along with successful candidates on 14.08.2014.

(iii) After filling up of the 9870 vacancies as provided above, the 2233 candidates who qualified the HTET after the cut-off date, sometimes in June, 2013 will be appointed as per their inter se merit enbloc below the above 9870 candidates.

(iv) In case, there still remain any wait-listed candidates from the wait-listed list of 14.08.2014, who could not be accommodated in the advertised posts of 9870, will be appointed enbloc as per their merit below the 2233 candidates.

(v) The seniority will be as per their merit position in their respective lists.

(vi) No dispute for seniority would be entertained of any candidate inter se different lists.

(vii) No claim for seniority or for any arrears would be entertained for any period not worked by the candidates of any of the above lists.

(viii) Salary would be paid for the period, for which such candidates have actually worked but not paid salary after due verification of their working both from the records and physically.

(ix) The 2012 selections will stand closed with the above arrangement.

(x) Exercising our powers under Article 142 of the Constitution, we increase the number of advertised posts beyond 9870 to accommodate the candidates as directed above and no more.

(xi) All the appeals are disposed of as directed above.

(xii) The impugned judgment shall stand modified to the aforesaid extent.

.....**J.**
[ANIRUDDHA BOSE]

.....**J.**
[VIKRAM NATH]

NEW DELHI

SEPTEMBER 13, 2022.

ITEM NO.21

COURT NO.14

SECTION IV-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 25269/2022

(Arising out of impugned final judgment and order dated 20-07-2022 in LPA No. 912/2016 passed by the High Court Of Punjab & Haryana At Chandigarh)

VIKAS KUMAR & ORS.

Petitioner(s)

VERSUS

THE STATE OF HARYANA & ORS.

Respondent(s)

(IA No. 117327/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 117329/2022 - EXEMPTION FROM FILING O.T., IA No. 133972/2022 - EXEMPTION FROM FILING O.T., IA No. 133971/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES & IA No. 117326/2022 - PERMISSION TO FILE PETITION (SLP/TP/WP/..))

WITH

Diary No(s). 25446/2022 (IV-B)

(FOR ADMISSION and I.R. and IA No.119545/2022-EXEMPTION FROM FILING O.T. and IA No.119544/2022-PERMISSION TO FILE PETITION (SLP/TP/WP/..))

WITH

SLP(C)No.19617/2017

SLP(C)Diary No.28161/2022

Date : 13-09-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MR. JUSTICE VIKRAM NATH

For the Parties

Mr. P.S.Patwalia, Sr.Adv.
Ms. Pragati Neekhra, AOR
Mr.Harshikha Verma, Adv.
Mr Arya Tripathi, Adv.
Mr Gajendra Singh Negi, Adv.
Mr. Bikramjit Singh Patwalia, Adv.

Mr. Mukul Rohatgi, Sr.Adv.
Mr. Nikhil Rohatgi, Adv.
Mr. Somesh Tiwari, Adv.
Ms. Kartika S.Sharma, Adv.

Mr. Shashank Bajbai, Adv.
Mr. Kaveesh Nair, Adv.
Vidula Mehrotra, Adv.
Mr. Shashank Khurana, Adv.
Mr. Vinod Kumar Ahlawat, Adv.
Ms. Archana Surve, Adv.
Dr. Sasmit Patra, Adv.
Mr. Shreyash Lalit, Adv.
Mr. Bharpur Singh, adv.
Ms. Manisha Ambwani, AOR
Mr. Shubhanker Singh, Adv.
Mr. Utsav Saxena, Adv.
Ms. Aashna Mehra, Adv.

Mr. Ranjit Kumar, Sr. Adv.
Ms. Preetika Dwivedi, AOR
Mr. Abhisek Mohanty, Adv.
Mr. Anurag Goyal, adv.
Mr. Parth Goyal, Adv.

Mr. Anil Grover, Sr. Adv. AAG
Ms. Noopur Singhal, Adv.
Mr. Satish Kumar, Adv.
Dr. Monika Gusain, Adv.

Dr. Vinod Kumar Tewari, AOR

Mr. Dushyant A. Dave, Sr. Adv.
Mr. Ajay Tiwari Sen, Sr. Adv.
Mr. Anupam Lal Das, Sr. Adv.
Mr. A. Singh, Adv.
Mr. Abhijeet Chatterjee, Adv.
Mr. Subodh K Pathak, Adv.
Mr. Shashi Ranjan, Adv.
Mr. Vinod Kr. Soni, Adv.
Mr. Pawan Kumar Sharma, Adv.
Mr. Akash Swami, Adv.
Mr. Vikaram Sheoran, Adv.
Mr. N. S. Chaudhary, Adv.
Ms. Sanya Kaushal, Adv.
M/S. V. Maheshwari & Co., AOR
Mr. Rajesh Dhankad, Adv.
Mr. Kulwant Singh Narwal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Permission to file special leave petitions are granted.

Leave granted.

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, stand(s) disposed of.

(NIRMALA NEGI)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)

[Signed order is placed on the file]