

is claimed by any one individual against another particular individual and therefore, even if technically the direct recruits were not before the Court, the petition is not likely to fail on that ground. The contention of the respondents of this additional reason must also be negated."

(12) In fairness to the learned counsel, his challenge to the rule on the ground that the petitioners conditions of service have been varied to their disadvantage without prior approval of the Central Government as required under Section 82 of the Punjab Re-organization Act be also noted. The submission is benefit of any merit. The petitioner herein is the Haryana State Co-operative Inspectors and Sub-Inspectors Association. Details of its members have not been given, nor it has been stated in the writ petition as to whether any of its members were in service prior to November 1, 1966. The protection under Section 82 of the Punjab Re-organization Act, 1966 is only available to such employees as were in service on November 1, 1966. Further, it is well-established that chances of promotion do not constitute a condition of service because chances of promotion are not a condition of service. (See in this connection the apex Court's judgments in *The State of Mysore and another v. G. N. Purohit and others* (5), *The State Maharashtra and another v. Chandrakant Anant Kulkarni and others* (6).

(13) On correct analysis of 1980 Rules, we hold that Statistical Assistants form part of Class III Service.

(14) For the reasons stated above, we find no merit in this petition and the same is dismissed.

R.N.R.

Before Hon'ble A. L. Bahri & N. K. Kapoor, JJ.

AMRIT LAL GOYAL,—Petitioner.

versus

STATE OF PUNJAB AND OTHERS,—Respondents.

Civil Writ Petition No. 8318 of 1993.

December 16, 1993.

*Constitution of India, 1950—Arts. 226 & 227— Appointment—
Whether petitioner fulfills requisite qualifications and is within*

(5) 1967 S.L.R. 753.

(6) 1981 (3) S.L.R. 326.

age prescribed to join service—Petitioner qualified to be Arts and Craft Teacher from the State of Haryana in 1978, recognised by State of Punjab—Subsequently these qualifications derecognised in 1984—Such derecognition not to effect those who obtained qualifications prior thereto—Petition allowed.

Held, that thus the sole question which needs determination is as to whether the petitioner fulfills the requisite qualification and is within the age prescribed to join the service. Admittedly, the petitioner has passed two years training course to be an Art and Craft Teacher from the State of Haryana in the year 1978. At that time, this qualification was recognised by the State of Punjab. It is subsequently that these qualifications were derecognised in the year 1984, 1985 and 1990. This precise objection was taken in C.W.P. 1148 of 1986 (Raj Karni v. Government of Punjab and others) and has been repelled by R. S. Mongia, J.—*vide* judgment dated 12th January, 1993 wherein it has been held that such derecognition would not effect those persons who had obtained such qualification prior to the date of derecognition.

(Para 5)

K. S. Chahal, Advocate, for the Petitioner.

R. K. Joshi, Addl. A.G., Punjab, for the Respondents.

JUDGMENT

N. K. Kapoor, J.

(1) The petitioner has sought issuance of a writ of *mandamus* commanding the respondents to appoint the petitioner as Art and Craft Teacher on the basis of priority Category-I.—*vide* letter No. 18/14/86-5pp (1703)/5964, dated 24th January, 1986 of the Punjab Government.

(2) The father of the petitioner Shri Madan Lal was killed by terrorists in village Sherpur on 23rd January, 1992. Pursuance to the policy of the Punjab Government with regard to giving employment to the kith and kin of the person killed on account of terrorist activities in the State, the mother of the petitioner applied for the employment of the petitioner under priority Category-I through S.D.O. (Civil) Malerkotla on 28th February, 1992. This application was forwarded by the S.D.O. (Civil) to Deputy Commissioner, Sangrur, who recommended that the petitioner be employed as Art and Craft Teacher in the Education Department, Punjab, Secretary, Education Department, Punjab, also forwarded the case to the Director Education Department (Schools)—respondent No. 2. However, respondent No. 3—District Education Officer, Sangrur,—*vide* letter dated 9th February, 1993 declined to appoint

the petitioner as Art and Craft Teacher on the ground (i) that the applicant has passed two years training course for Art and Craft Teacher from the State of Haryana which is not recognised by the Punjab Government, and (ii) that the date of birth of the petitioner is 13th April, 1955 i.e. he was 37 years of age at the time when he sought employment.

(3) The case set up by the petitioner is that the authorities have erred in law in not granting employment to him and that too on non existing grounds. According to the petitioner, the first objection of the respondents that he did not possess the requisite qualification to be appointed as Art and Craft Teacher is wrong. This matter has been specifically examined by this Court in C.W.P. No. 1148 of 1986 decided on 12th January, 1993 wherein it has been held that the persons who possess the requisite qualification from the State of Haryana or Rajasthan prior to the date of derecognition ought to be considered for approval/regularisation by treating them as duly qualified. The petitioner passed his training course in 1978 i.e. long before the derecognition of such qualification by the State and thus there was no ground to decline employment to the petitioner for this reason. Referring to the letter issued by the Punjab Government, Department of Relief and Resettlement, it has been urged that the age for appointment as a teacher can be relaxed for another period of five years in respect of cases covered under priority Category No. 1. Since the upper age limit for appointment as teacher is 36 years, thus a person could be appointed in respect of category No. 1 upto 41 years of age.

(4) Pursuance to the notice of motion, issued, respondents have put in appearance and filed written statement. The respondents have almost reiterated the same objection i.e. with regard to the requisite qualification for appointment as Art and Craft Teacher and the permissible age for entry as a teacher. Other averments made in the petition with regard to the death of his father by the terrorist and the instructions issued by the Government giving of employment to the kith and kin of the deceased have been admitted.

(5) Thus the sole question which needs determination is as to whether the petitioner fulfills the requisite qualification and is within the age prescribed to join the service. Admittedly, the petitioner has passed two years training course to be an Art and Craft Teacher from the State of Haryana in the year 1978. At that time, this qualification was recognised by the State of Punjab. It is subsequently that these qualifications were derecognised in the

year 1984, 1985 and 1990. This precise objection was taken in C.W.P. No. 1148 of 1986 (*Raj Karni v. Government of Punjab and Others*) and has been repelled by R. S. Mongia, J.,—*vide* judgment dated 12th January, 1993 wherein it has been held that such derecognition would not effect those persons who had obtained such qualification prior to the date of derecognition.

(6) The other objection raised by the State is also without any merit. *Vide* letter addressed to the Deputy Commissioner, Sangrur, dated 13th October, 1992 issued by the Department of Relief and Resettlement Branch, Punjab. Upper age for teachers is fixed at 36 years which, however, can be relaxed for another five years in cases covered for employment under priority category I in terms of the policy instructions of the Department of Personnel and Administrative Reforms. There is no denying the fact that the petitioner's case is squarely covered by the aforesaid instructions noted above (Annexure P.5).

(7) Since the petitioner has successfully met the two objections raised by the respondents while denying him the job of Art and Craft Teacher, we accept this writ petition and direct the respondents to appoint the petitioner as Art and Craft Teacher being son of deceased Madan Lal as per policy decision within three months from the receipt of this order. No order as to costs.

R.N.R.

Before Hon'ble N. C. Jain & Amarjeet Chaudhary, JJ.

SUKHDEV SINGH,—*Petitioner.*

versus

EXECUTIVE MAGISTRATE AND ANOTHER,—*Respondents.*

Civil Writ Petition No. 7613 of 1993

January 12, 1994.

Constitution of India, 1950—Arts. 226/227—Punjab Gram Panchayat Act, 1952—Ss. 13 & 13 I—Whether Election Tribunal has any authority to pass an interim order restraining a successful candidate from participating in proceedings of Gram Panchayat—Held, that Election Tribunal has no inherent jurisdiction to pass stay order—Provisions of Order 39 rule 1 C.P.C. have not been made applicable.