



\$~109, 113 to 131

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 31.01.2025

+ **W.P.(C) 10126/2024 & CM APPLs. 41442-43/2024**
SHIVA SHARMA AND ORSPetitioners

versus

UNION OF INDIA AND ANRRespondents

+ **W.P.(C) 2824/2024 & CM APPL. 11608/2024, 62964/2024, 69888/2024**
SAPNA MEENA AND ORSPetitioners

versus

UNION OF INDIA & ANR.Respondents

+ **W.P.(C) 2901/2024 & CM APPL. 11968/2024**
NEELESH TIWARI & ORS.Petitioners

versus

UNION OF INDIA & ANR.Respondents

+ **W.P.(C) 5484/2024 & CM APPL. 22589/2024**
VEDANSH SANJAY PATHAKPetitioner

versus

UNION OF INDIA & ANR.Respondents

+ **W.P.(C) 5544/2024 & CM APPL. 22874/2024**
RAHUL DUBEY & ORS.Petitioners

versus



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UNION OF INDIA AND ANR.

.....Respondents

+ **W.P.(C) 8912/2024 & CM APPL. 36382/2024**
MS NITU

.....Petitioner

versus

UNION OF INDIA AND ANR.

.....Respondents

+ **W.P.(C) 8914/2024 & CM APPL. 36386/2024**
MS ANJALI

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

+ **W.P.(C) 8921/2024 & CM APPL. 36405/2024**
MS. INDU

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

+ **W.P.(C) 8923/2024 & CM APPL. 36407/2024**
ANIL KUMAR

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

+ **W.P.(C) 9191/2024 & CM APPLs. 37559-60/2024,**

MS PAYAL

.....Petitioner

versus



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UNION OF INDIA & ANR.

.....Respondents

+ **W.P.(C) 9206/2024 & CM APPLs. 37688-89/2024**

MR VIKAS

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

+ **W.P.(C) 9207/2024 & CM APPLs. 37690-91/2024**

MS KHUSHBU

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

+ **W.P.(C) 9366/2024 & CM APPL. 38497/2024**

ATMARAM VYAS

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

+ **W.P.(C) 9827/2024 & CM APPL. 40349/2024**

DIPTI JANGRA

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

+ **W.P.(C) 11019/2024 & CM APPL. 45560/2024**

RUPANGI DWIVEDI AND ORS

.....Petitioners

versus

UNION OF INDIA AND ANR

.....Respondents

+ **W.P.(C) 11021/2024 & CM APPL. 45574/2024**

PREETI AND ORS

.....Petitioners

versus



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- UNION OF INDIA AND ANRRespondents
- + W.P.(C) 13466/2024 & CM APPL. 56367/2024
KOMALPetitioner
- versus
- UNION OF INDIA & ANR.Respondents
- + W.P.(C) 14398/2024 & CM APPL. 60375/2024
RAVINDRA KUMARPetitioner
- versus
- UNION OF INDIA & ANR.Respondents
- + W.P.(C) 14862/2024 & CM APPL. 62406/2024
AKHAND PRATAP & ORS.Petitioners
- versus
- UNION OF INDIA & ANR.Respondents
- + W.P.(C) 14633/2024 & CM APPL. 61434/2024
ANUSHREE SHAHOOPetitioner
- versus
- UNION OF INDIA & ORS.Respondents

Appearances:

Petitioner: Ms. Mrinal Elker Mazumdar & Mr. Chinmoy Chaitanya, Advocates in Item Nos. 113 to 116 & 124. Mr. Vibhakar Mishra, Mr. Dipansh Mishra, Mr. Utkarsh Mishra, Ms. Geetanjali Yadav & Anil Pratham, Advocates in Item Nos. 126, 127 & 130.



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Mr. Kushagra Bansal, Advocate in Item Nos. 117-123, 125, 128, 129 and 131.

Respondent:

Mr. Amartya A. Sharan, Ms. Saumya Dwivedi, Mr. Akash Kishore and Mr. Animesh Rajoriya, Advocates for NESTS.

Ms. Iram Majid, CGSC with Mr. Mohd. Suboor, Mr. Seham Khan, Advocates for UOI in Item No. 109.

Mr. Hemant Kumar Yadav, SPC for UOI with Mr. Kapil Dev Yadav, GP for UOI in Item No. 113.

Ms. Shubhra Parashar, Mr. Virender Pratap Singh Charak & Mr. Pushender Pratap Singh, Advocates for UOI in Item Nos. 114, 115 & 116.

Mr. Nirvikar Verma & Mr. Varun Arora, Advocates for UOI in Item No. 117.

Mr. Mukul Singh, CGSC with Ms. Ira Singh & Mr. Aryan Dhaka, Advocates for UOI in Item Nos. 118.

Ms. Nidhi Raman, CGSC with Mr. Zubin Singh, Advocates for UOI/R-1. [M:-9555672532]

Mr. Anshuman Singh & Mr. Aakasn Pathak, GP for UOI in Item No. 120. [M:-9971724716].

Mr. Farman Ali, SPC with Mr. Vidur Dwivedi, GP, Ms. Usha Jamnal & Ms. Harshita Chaturvedi, Advocates for UOI in Item No. 121.

Mr. Sahaj Garg, SPC with Mr. Aakash Pathak, Advocates for UOI in Item No. 122. [M:- 971724716]

Mr. Kapil Dev Yadav, GP for R-1 in item No. 126. [M:-9555536530].

Mr. Tarveen Singh Nanda, GP for UOI in Item No. 124.

Mr. Nishant Gautam, CGSC with Mr. Amit Acharya, GP & Mr. Vinay Kaushik & Mr. Vipul Verma, Advocates for UOI in Item No. 125.

Mr. Ruchir Mishra, Mr. Mukesh Kr. Tiwari, Ms. Reba Jena Mishra, Mr. Sanjiv Kr. Saxena & Ms. Harshita Sharma, Advocates for UOI in Item No. 126

Mr. Abhishek Yadav, SPC Advocate for R-1 in Item No. 130. [M:-9811319032].



Mr. Umang Chopra, SPC & Mr. Karan Malhotra, GP for UOI in Item No. 127.

Mr. Anshuman, SPC with Mr. Vidur Dwivedi, GP with Ms. Harshita Chaturvedi, Advocate for UOI in Item No. 128.

Mr. Avtaar Singh Deol, Sr. Panel Counsel for R-1/UOI in Item No. 129.

Mr. Chetanya Puri, SPC with Mr. Anubhav Tyagi, GP, Mr. Chetan & Mrs. Lipi Garg, Advocates for UOI in Item No. 131.

Mr. Anshuman Sharma, Mr. Azaz Ahmed, Advocates for R-2 in Item No. 131. [M:-9910207302].

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. These writ petitions, under Article 226 of the Constitution, have been filed by candidates for various posts, who applied for appointment in terms of Information Bulletins published by National Education Society for Tribal Students ["NESTS"] in the year 2023. The petitions have been heard together as the petitioners raise a common question, which is whether NESTS was obliged to alter the prescribed cut-off date for fulfilling eligibility conditions, when it extended the last date for filing of applications from time to time.

A. Facts

2. NESTS is an autonomous organization established under the Ministry of Tribal Affairs, Government of India. It carries out recruitment for various posts in Eklavya Model Residential Schools ["EMRS"], including Post Graduate Teachers ["PGT"], Trained Graduate Teachers ["TGT"], Trained Graduate Teacher (Physical Education



Teacher) [“TGT (PET)”] and Hostel Wardens (male) and (female). In the year 2023, it published Information Bulletins and Guidelines with regard to the EMRS Staff Selection Exam [“ESSE”], 2023. The Information Bulletins laid down detailed eligibility conditions for applicants, which included criteria with regard to their age, category [for example General, Scheduled Caste, Scheduled Tribe, Persons with benchmark disability], educational qualifications, etc.

3. When the Information Memorandums were first published, candidates were permitted to submit online forms for TGTs and Hostel Wardens until 23:50 hours on 18.08.2023, and for all other posts, including PGTs, until 23:50 hours on 31.07.2023.

4. Chapter 3 of the Information Bulletins, headed “*EMRS Staff Selection Exam [ESSE] – 2023*”, under the heading, “*Other Instructions*” provides as follows:

(a) For TGTs and Hostel Wardens [hereinafter, “TGT’s etc.”]

“f. The cut-off date for determining various eligibility criteria (Educational Qualifications, age limit etc.) will be 18/08/2023. Before applying, applicants must satisfy themselves about their eligibility as on 18/08/2023.”

(b) For PGTs and all other posts [hereinafter, “PGT’s etc.”]

“f. The cut-off date for determining various eligibility criteria (Educational Qualifications, age limit etc.) will be 31st July 2023. Before applying, applicants must satisfy themselves about their eligibility as on 31st July 2023.”

5. Chapter 4 of the Information Memorandums is entitled “*Eligibility Criteria and Qualification*”. After specifying the specific educational qualifications required for each post advertised, Chapter 4 included the



following stipulations under the heading “*Note*”, which is as follows:

- *“Those applying in response to ESSE-2023 advertisement should satisfy themselves regarding their eligibility for the post applied for.*
- *The candidate must have certificate of minimum required qualification at the time of submission of application.”*

6. As far as PGTs etc. are concerned, the last date of submission of applications was first extended until 18.08.2023 and thereafter until 19.10.2023. As far as TGTs etc. are concerned, the last date was also extended until 19.10.2023. It is the undisputed position that, while extending the last date for submission of forms, NESTS did not make any express stipulation as to whether the eligibility date remained the original eligibility date, i.e. 18.08.2023 [For TGTs etc.]/31.07.2023 [For PGTs etc.], or those also stood extended. However, there was some modification in the eligibility criteria, with regard to some of the posts in the extension notification.

7. In the present batch of cases, the undisputed factual position is that the candidates had taken the examinations for their qualifying degrees prior to the original cut-off dates, but their results were declared during the extended period for submission of applications. The hearing of the petitions has, therefore, proceeded on the basis that the petitioners obtained their qualifying degrees before the last date of submission of applications, but not before the original cut-off dates stipulated in the Information Memorandums. The contention of the petitioners is that the cut-off dates in respect of the eligibility criteria, should also have been extended to align with the new deadlines for submission of forms.

8. Interim applications filed in some of the writ petitions were



dismissed by order dated 15.05.2024¹.

B. Withdrawal of writ petitions by some of the petitioners

9. At the very outset, I am informed that several of the petitioners have in fact been issued provisional letters of appointment to the posts in question. To that extent, the writ petitions have been rendered infructuous as far as those petitioners are concerned, and learned counsel for the petitioners seek permission to withdraw the writ petitions, *qua* those petitioners. Mr. Amartya A. Sharan, learned counsel for NESTS, submits that proceedings for their removal, on the ground that they did not fulfil the original eligibility criteria by the cut-off date in question, have been commenced in some cases, and are in contemplation in other cases. However, he accepts that candidates, who have already been appointed, can be removed only after following the procedure provided in the relevant service rules. In such circumstances, the writ petitions, preferred by those candidates who have already been issued letters of appointment, are permitted to be withdrawn. This is, however, without prejudice to the rights and contentions of the parties, in the event proceedings of any nature have been initiated, or are initiated in future, against them on this account.

10. This direction applies to the following parties, whose names have been supplied by learned counsel for the petitioners:

<i>Case No.</i>	<i>Petitioner No.</i>	<i>Petitioner Name</i>
	<i>11</i>	<i>Mr. Jasmeet</i>
	<i>18</i>	<i>Mr. Shubham Meena</i>
	<i>23</i>	<i>Mr. Akhilesh</i>

¹ CM APPL. 29153/2024 in WP(C) 2824/2024; CM APPL. 29148/2024 in WP(C) 2901/2024; CM APPL. 29152/2024 in WP (C) 5484/2024; and CM APPL. 29156/2024 in WP (C) 5544/2024.



WP (C) 2824/2024	24	<i>Mr. Digpal</i>
	31	<i>Mr. Ravinder</i>
	43	<i>Mr. Vidyadhar Kumar</i>
	47	<i>Mr. Nirmal Kumar Sharma</i>
WP (C) 2901/2024	5	<i>Mr. Ravi Pandey</i>
	7	<i>Mr. Ajay Maurya</i>
	8	<i>Ms. Vandana Nehra</i>
	15	<i>Mr. Alok Ranjan</i>
WP (C) 5544/2024	13	<i>Mr. Dinesh Sankhala</i>
WP (C) 10126/2024	10	<i>Mr. Lokesh Yadav</i>
WP (C) 8914/2024	<i>Sole Petitioner</i>	<i>Ms. Anjali</i>

C. Submissions of Counsel

11. I have heard learned counsel for the parties. On behalf of the petitioners, arguments were principally advanced by Ms. Mrinal Elker Mazumdar, learned counsel, and supplemented by other learned counsel. On behalf of the respondents, arguments were advanced by Mr. Sharan.

12. Ms. Mazumdar submits that the petitioners had all taken their qualifying examinations prior to the original cut-off date, but were waiting for their results. They had thus completed the qualifying requirements, but their certificates had not been issued prior to those dates. Upon issuance of the certificates, they applied prior to the extended last date for submission of applications.

13. Ms. Mazumdar also drew my attention to some correspondence between the candidates and NESTS, with regard to extension of the cut-off date. By an email dated 29.10.2023² one of the TGT (PET)

² Annexure P-5 in W.P.(C) 2824/2024.



candidates, Mr. Akshay Kumar, addressed NESTS as follows:

“Dear Sir,

I hope this email finds you well. I am writing to bring your kind attention towards the cut-off date for determining eligibility criteria for the upcoming ESSE-2023.

As per the notification, the cut-off for determining various eligibility criteria (Education qualifications, age limit etc.) was 18/08/2023 i.e, the last date for submission of application. The application form reopens and further it was extended till 19/10/2023 for the participation of more such eligible candidates but there was no any information regarding the extension of cut-date of eligibility criteria.

We, the applicants, request you to change the cutoff date to 19-10-2023 (the last date of submission of application) and release a corrigendum regarding this change on the website.

This change will ensure that a broader range of qualified candidates can participate in the recruitment process. We believe that this adjustment aligns with your commitment to providing equal opportunities and a fair evaluation of candidates’ qualifications.

Thanking You

Sincerely,”³

14. NESTS’s response dated 30.10.2023⁴ was as follows:

“Dear Candidate:-

You are requested to go through the Information Bulletin Chapter-4 which is available on the website. <https://emrs.tribal.gov.in>”

15. Mr. Akshay Kumar addressed a further e-mail to NESTS on 01.11.2023⁵, which reads as follows:

“We've already gone through the Chapter 4 information bulletin which is absolutely okay.

Our concern is about the cut-off date for eligibility criteria which is mentioned in point (f) of Other Instructions in Information bulletin's Chapter 3 which is against the norms/trends being followed in other similar recruitment exams in which the cut-off date is decided according to the date of close of application form and is also extended if application form reopens.

³ Emphasis supplied.

⁴ Annexure P-6 in W.P.(C) 2824/2024.

⁵ Annexure R-10 to the counter affidavit in W.P.(C) 2901/2024.



In short, cutoff date should be 19-10-2023 instead of 18-08-2023.

We, the applicants, request you to convey this message to the concerned officials to take necessary action in favour of the aspirants.

Thanking you

Sincerely yours,"⁶

16. The respondent's reply, also dated 01.11.2023, was a verbatim copy of the earlier reply dated 30.10.2023.

17. Based upon these communications, Ms. Mazumdar submits that, in response to the candidates' request for clarification, NESTS only referred to Chapter 4 of the Information Bulletins, and not to Chapter 3. The condition in Chapter 4 being for possession of certificates at the time of submission of applications, candidates were misled into believing that the last date for qualification had also been extended accordingly. She submits that, at the very least, the contents of the Information Bulletins, read with the representations of the respondents, led to considerable ambiguity, which should be resolved in favour of the petitioners, rather than against them. Ms. Mazumdar points out that the petitioners' applications were in fact accepted, and they have also qualified for appointment. She contends that the original cut-off dates were synchronised with the original application dates, and continuing with the same process would make a larger pool of candidates available for selection. This would thus enure not just to the benefit of the candidates, but also to the benefit of the prospective employer – NESTS.

18. Mr. Sharan, on the other hand, submits that a cut-off date for eligibility must be treated as sacrosanct. The application of an eligibility cut-off may operate harshly against some potential candidates, but that



cannot be a reason to relax the date, particularly because other similarly placed candidates may have refrained from applying, in the knowledge that they did not fulfil the stipulated qualification criteria before the cut-off date provided.

19. Learned counsel for the parties have cited certain judgments in support of their contentions, which will also be dealt with below in this judgment.

D. Analysis

20. The following judgments of the Supreme Court deal with the question raised in these writ petitions:

- a. In *Rekha Chaturvedi v. University of Rajasthan & Ors.*⁷, the Supreme Court clearly indicated that a fixed date for assessment of the candidate's qualifications can be provided in the advertisement, failing which the last date for making applications would be the relevant date⁸.
- b. In *Ashok Kumar Sharma & Ors. v. Chander Shekhar & Anr.*⁹, the Supreme Court allowed a review petition against its judgment¹⁰ in Civil Appeal Nos. 5407-08 of 1992, decided on 18.12.1992. The sanctity of the cut-off date prescribed in the advertisement or notification calling for applications has been emphasised, following the judgment in *Rekha Chaturvedi*¹¹. The Court has

⁶ Emphasis supplied.

⁷ 1993 Supp (3) SCC 168.

⁸ Paragraph 10 of the said judgment has been extracted in the Division Bench judgment of this Court in *Delhi Subordinate Services Selection Board v. Uma Shankar Sharma*, 2013 SCC OnLine Del 1911, in paragraph 24 below.

⁹ (1997) 4 SCC 18.

¹⁰ 1993 Supp (2) SCC 611.

¹¹ *Supra* (Note 7), paragraph 6.



specifically rejected the justification that the best talent would be available if the employer is permitted to assess the eligibility on the date of selection.

- c. In *Jasbir Rani & Ors. v. State of Punjab & Anr.*¹², the Court was concerned with a cut-off date pertaining to age of the applicants. The Court held that in the absence of a statutory provision in that regard, the date has to be fixed at the time of issuing the advertisement.
- d. In *Ashok Kumar Sonkar v. Union of India & Ors.*¹³, the Court held that the cut-off date for determination of qualifications would be the last date of filing applications, in the event no date is specified in the advertisement or reference. This principle is expressly subject to the qualification that it applied if no date has been fixed in the advertisement.
- e. In *DDA v. Rajesh Dua*¹⁴, the Court was concerned with a case in which eligibility was to be reckoned on the last date of submission of applications. It was held that if the result of the candidate's examinations had not been declared by the said date, the candidate could not be taken to have fulfilled the eligibility criteria, even if the examination had taken place within the stipulated time.
- f. In *State of Bihar & Ors. v. Madhu Kant Ranjan & Anr.*¹⁵ also, the Court emphasised the necessity of compliance with eligibility

¹² (2002) 1 SCC 124, paragraph 11.

¹³ (2007) 4 SCC 54, paragraph 20.

¹⁴ (2023) 11 SCC 585.

¹⁵ (2021) 17 SCC 141, paragraph 11.



criteria before the cut-off date mentioned in the advertisement, unless extended by the recruiting authority.

21. Applying these principles to the facts of the present case, Ms. Mazumdar's principal argument turns on an interplay of the extracts of Chapter 3 and Chapter 4 of the Information Bulletins, quoted above. The cut-off date stipulated in Chapter 3 was the same as the last date of the respective applications, as originally stipulated. This was consistent with the note in Chapter 4, which required candidates to possess certificates of their qualifying eligibility by the date of application. While extending the time for submission of applications, however, NESTS did not make any express declaration with regard to the cut-off date. The implication, in my view, was that the cut-off date remained unchanged. There is no sacrosanct principle that eligibility must always be reckoned, as of the last day of applications. The judgments cited above hold that, in the absence of a cut-off date provided by the prospective employer, the last date for submission of applications would be the relevant date to assess eligibility of candidates. However, the employer is well within its power to stipulate a different cut-off date, which must then be given effect.

22. Upon a reading of the two conditions – in Chapter 3 and Chapter 4 of the Information Memorandum – I do not discern any ambiguity, so as to require an interpretative exercise in favour of the petitioners. Chapter 3 refers to a specified date, and does not make reference to the last date of applications. It may well be that the dates were originally chosen to align with the application deadlines, but such a link was not expressed. In the absence of any statement in the extension notifications, by which the respondents notified potential candidates that the qualifying date for



eligibility had also been extended, no such assumption is warranted, merely because the original dates for both purposes were the same.

23. Ms. Mazumdar cites two judgements, one of the Punjab and Haryana High Court¹⁶ and one of the Patna High Court¹⁷ in support of her contention that the respondent was required to extend the cut-off date for eligibility when it extended the last date for applications. These judgments do point in this direction. However, Mr. Sharan has drawn my attention to a Division Bench judgement of this Court, *Delhi Subordinate Services Selection Board v. Uma Shankar Sharma*¹⁸, which clearly indicates to the contrary.

24. In *Delhi Subordinate Services Selection Board*¹⁹, the Court was faced with a situation very similar to the present case. An advertisement was issued for appointment of teachers under the Directorate of Education, Government of National Capital Territory of Delhi. The last date for submission of applications had to be extended, but while extending the submission of applications, no express provision was made with regard to the last date for satisfaction of eligibility conditions. The Division Bench held as follows:

*“2. The user department i.e. the Government of NCT Delhi found that there was an error in the number of vacant posts notified to be filled up and sent a correct number to the Delhi Subordinate Service Selection Board, resulting in the Board issuing an addendum to the notification inviting applications dated November 07, 2009, indicating therein that the vacancies would be as indicated in the corrigendum. **The last date for receiving applications was extended to March 25, 2010. No other term or condition of the notification dated November 07, 2009 was changed, and hence it is obvious that the prescribed cut off date by***

¹⁶ *Akash Goyal v. State of Haryana & Ors*, CWP No. 16736/2017, decided on 23.02.2023.

¹⁷ *Satish Kumar & Ors. v. Union of India & Ors.*, 2022 OnLine Pat 729.

¹⁸ 2013 SCC OnLine Del 1911.

¹⁹ *Supra* (Note 18).



which eligibility had to be acquired continued to be March 15, 2010.

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xxx

xxx

11. Suffice would it be to state that the consistent view taken by Courts is that if a date is prescribed in an advertisement as the last date by which a qualification has to be obtained, the date being sacrosanct, has to be respected and we may note the reason for the view by reproducing paragraph 10 from the decision of the Supreme Court reported as 1993 Supp (3) SCC 168 Rekha Chaturvedi v. University of Rajasthan which reads as under:-

“10. The contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected. The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they are qualified for the posts in question or not, if they are yet to acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus swelling the number of applications. But a still worse consequence may follow, in that it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for the scrutiny of the qualifications will be the last date for making the applications. We have, therefore, no hesitation in holding that when the Selection Committee in the present case, as argued by Shri Manoj Swarup, took into consideration the requisite qualifications as on the date of selection rather than on the last date of preferring applications, it acted with patent illegality, and on this ground itself the selections in question are liable to be quashed. Reference in this connection may also be made to two recent decisions of this Court in A.P. Public Service



Commission, Hyderabad v. B. Sarat Chandra and District Collector & Chairman, Vizianagaram Social Welfare Residential School Society, Vizianagaram v. M. Tripura Sundari Devi.”

12. *For the reasons recorded by the Division Bench of this Court overruling the view taken by the Tribunal in Preeti Balyan's case and for the law declared by the Supreme Court in Rekha Chaturvedi's case (supra) the impugned decision has to be set aside; additionally for the reason that it was for the Staff Selection Board to have notified the last date by which eligibility had to be acquired. Further, the advertisement inviting applications gave a wrong figure pertaining to the vacancies notified to be filled up and the corrigendum simply corrected by disclosing to the candidates the exact number of vacancies proposed to be filled up. An error of notifying the number of vacancies being corrective, it had not to be treated that the original advertisement inviting applications stood superseded. **There is no law that eligibility has to always as of the last date by which applications would be received. The date of eligibility has to be clearly spelt out and the same could be any date as per the advertisement inviting applications.**”²⁰*

25. Having regard to this judgement, which is a Division Bench judgement of this High Court, I am unable to follow the view taken by the Punjab and Haryana High Court and Patna High Court in the judgements cited by Ms. Mazumdar.

26. I am also of the view that the communications of NESTS, referred to above, do not take the petitioners' case much further. Ms. Mazumdar emphasised that the said communications referred only to Chapter 4, and not to Chapter 3. However, such a narrow reading does not commend to me. The Information Bulletins were naturally to be read as a whole. Chapter 4, in addition to the note which refers to “*certificate of minimum required qualification at the time of submission of application*”, also contains a note that the applicants should “*satisfy themselves regarding*

²⁰ Emphasis supplied.



their eligibility for the post applied for". The respondents would certainly have done well to respond to the candidate's query with greater clarity and precision, but I do not read the responses quoted above, as a representation with regard to change in the cut-off date. In fact, the e-mails sent by Mr. Akshay Kumar, quite clearly show that he also understood the position correctly, i.e. in the absence of an express shift in the eligibility cut-off date, it remained the original date stipulated in the Information Memorandums.

27. This conclusion is also indicated by the fact that the petitioners, for all practical purposes, did not possess the required qualifications on the last date of eligibility. The petitioners' case does not merely concern certification or documentation with regard to their eligibility conditions, but substantive fulfilment of the eligibility conditions²¹. The petitioners' results for their qualifying examinations had not been declared on the relevant date, although they had completed their examinations. In such circumstances, the petitioners could not have asserted that they satisfied the eligibility criteria on the stipulated dates. The present cases are thus not merely of delayed submission of certificates, but of belated satisfaction of eligibility criteria.

28. While sympathising with the predicament in which the petitioners find themselves, for the reasons aforesaid, I am unable to accede to their request for issuance of writ of mandamus to the respondents to change the cut-off dates.

E. Conclusion

²¹ *Rakesh Kumar Sharma v. State (NCT of Delhi)*, (2013) 11 SCC 58, paragraph 21.



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29. In view of the above discussion, the writ petitions are dismissed as withdrawn in respect of the petitioners enumerated in paragraph 10 hereinabove, and dismissed as against all other petitioners. There will be no order as to costs.

PRATEEK JALAN, J

JANUARY 31, 2025

pv/SS/kb