

**Court No. - 32**

**Case :-** WRIT - A No. - 14539 of 2020

**Petitioner :-** Pooja Kumari

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Seemant Singh

**Counsel for Respondent :-** C.S.C., Arun Kumar, Dhananjay Awasthi

**Hon'ble Arvind Kumar Mishra-I,J.**

Heard learned counsel for the parties.

Contention of the petitioner is that in this case is diploma requirements though not passed/completed by the petitioner was subsequently availed without flaw and as such denial of salary to the petitioner merely on account of not holding diploma degree after graduation cannot deny him the right to receive her shall be as such. In similar matter the writ petition of several petitioners was entertained by this Court and one of such order as was passed by this Court as Annexure No.14, wherein Writ A 5981/2019 was decided and allowed accordingly on 10.5.2019 by speaking order, wherein all the factual aspects were taken note of and the petitioner say Suraj Kumar Tripathi of the aforesaid writ petition was allowed to harvest the fruit of subsequently acquired the diploma degree after completing Intermediate.

I have heard learned Standing Counsel for respondent no.1, Sri Bharat Pratap Singh and Sri Arun Kumar, learned counsel for respondent nos.2 and 3.

Under the facts and circumstances of the case, specific consideration regarding the eligibility of the candidates have been elaborated in the order and since the petitioner has already acquired the qualification though subsequently but it does not adversely effect her discharge of duties and she is fit to carry out with the job, therefore fruit of the job in the shape of the salary along with arrears of salary cannot be denied to her at this stage.

In view of above, respondent no.3 is therefore, directed to release the salary as well as arrears of salary in favour of the petitioner within a period of one month from today after a certified copy of this order is submitted before the authority concerned within a week from today.

Accordingly, this petition is allowed.

**Order Date :-** 22.1.2021

Raj

**Court No. - 36**

**Case :-** WRIT - A No. - 5981 of 2019

**Petitioner :-** Suraj Kumar Tripathi

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Hritudhwaj Pratap Sahi, Samarath Singh, Sankalp Narain

**Counsel for Respondent :-** C.S.C., Ashok Kumar Yadav

**Hon'ble Mrs. Sunita Agarwal, J.**

From a perusal of the written instructions filed by the District Basic Education Officer, Allahabad, it is evident that objection taken to the teachers training qualification possessed by the petitioner is that the eligibility qualification for admission to the said training course is 10+2 (Intermediate) examination, whereas as per Rule 2(1)(q) of the U.P. Basic Education (Teachers) Service Rules, 1981 (hereinafter referred to as 'the Rules, 1981'), the teachers training course should be that as recognized by the Government or NCTE and wherein eligibility qualification should be graduate. The objection being raised by the District Basic Education Officer on the said issue has been dealt with by this Court in the judgment and order dated 17.4.2019 in Writ-A No. 23691 of 2018 (Vikram Singh and 4 others vs. State of U.P. and 3 others).

Further, the fact in the instant case that the petitioner had completed graduation course before completion of diploma in Elementary Education (Teachers Training Course) is not disputed.

Reference may also be made to the norms and standards for diploma in elementary teacher education Programme leading to Diploma in Elementary Education (D.El.ED) as contained in Appendix-2 of NCTE Regulations 2014 which provides eligibility for admission to the training course. Relevant Clause '3.2' reads as under:-

*"3.2 Eligibility (a) Candidates with at least 50% marks in the higher secondary (10+2) or its equivalent examination are eligible for admission.*

*(b) The reservation and relaxation in marks for SC/ST/OBC/PWD and other categories shall be as per the rules of the Central Government/State Government, whichever is applicable."*

The standards for Elementary Education Programme fixed by

the NCTE Rule, 2014 would prevail over the provisions as contained in Rule 2(1)(q) of 1981 Rules as the NCTE Rules 2014 is the central legislation.

For the aforesaid, it cannot be said that the petitioner is not eligible for being appointed on the post of Assistant Teacher having been qualified in the Assistant Teacher Recruitment Examination-2018.

However, as to the diploma course being recognized by N.C.T.E. or genuineness or correctness thereof, it is always open for the District Basic Education Officer, Allahabad to make an enquiry after issuance of appointment letter.

The respondent no. 4 is, therefore, directed to issue an appointment letter to the petitioner within a period of two weeks from the date of submission of certified copy of this order.

Subject to the above, the writ petition is **allowed**.

**Order Date :-** 10.5.2019

Brijesh