

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

**CWP No.9925 of 2005
Date of Decision: 9.03.2010**

Hawa Singh &Ors.Petitioners

Vs.

State of Haryana & Ors.Respondents

Coram:- Hon'ble Mr. Justice Vinod K. Sharma,

Present: Mr. G.K. Chatrath Sr. Advocate,
with Mr. Vikas Chatrath & Ms. Alka Chatrath,Advocates,
for the petitioners.

Mr. A.S. Ghangas, Additional AG, Haryana,
for the respondents.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in Digest?

VINOD K. SHARMA, J.

This judgment shall dispose of:

1. CWP No.9925 of 2006, Hawa Singh &Ors. Vs. State of Haryana & Ors.
2. CWP No.11351 of 2005, Jai Bhagwan &Ors. Vs. State of Haryana & Ors.

3. CWP No.9986 of 2005, Hoshiar Singh &Ors. Vs. State of Haryana & Ors.
4. CWP No.15666 of 2006, Padam Kumar &Ors. Vs. State of Haryana & Ors.
5. CWP No.16649 of 2007, Ranbir Singh &Ors. Vs. State of Haryana & Ors.
6. CWP No.18144 of 2006, Krishan Kumar &Ors. Vs.State of Haryana & Ors.
7. CWP No.5330 of 2007, Anand Parkash & Anr. Vs. State of Haryana & Ors.
8. CWP No.6148 of 2007, Satbir Vs. State of Haryana & Ors.
- 9.CWP No.1519 of 2009, Diwan Singh & Ors. Vs. State of Haryana & Ors.
10. CWP No.9428 of 2006, Joginder Singh & Ors. Vs. State of Haryana & Ors.
11. CWP No.13348 of 2009, Ravi Bhan Singh Vs. State of Haryana & Ors.
12. CWP. Os.440 of 2007, Jai Singh & Ors. Vs. State of Haryana & Ors.
- 13.CWP No.409 of 2007, Balbir Singh & Ors. Vs.State of Haryana & Ors.
- 14.CWP No.598 of 2007, Rajpal Vs. State of Haryana & Ors.
- 15.CWP No.637 of 2007, Dilbagh Singh & Ors. Vs. State of Haryana & Ors.
- 16.CWP No.761 of 2007, Rajinder Singh & Ors. Vs. State of Haryana & Ors.
- 17.CWP No.828 of 2007, Satish Kumar Vs. State of Haryana & Ors.
- 18.CWP No.4169 of 2007, Ram Kumar & Anr.& Ors. Vs. State of Haryana & Ors.
- 19.CWP No.15403 of 2007,Balwan Singh Vs. State of Haryana & Ors.
- 20.CWP No.2337 of 2005, Ram Kumar & Ors. & Ors. Vs.State of Haryana & Ors.
- 21.CWP No.15371 of 2006, Karamvir & Ors. Vs. State of Haryana & Ors.
- 22.CWP No.16055 of 2006, Baljit Singh & Ors. Vs. State of Haryana & Ors.

In CWP Nos. 9925, 11351 and 9986 of 2005, 15666 of 2006, 16649 of 2002, 18144 of 2006, 5330 and 6148 of 2007, 9428 of 2006 and 13348 of 2009, the petitioners have challenged their termination.

In CWP Nos.2337 of 2005 and 1537, 16055 and 15371 of 2006, the petitioners who have been selected for appointment have not been given appointment letter, therefore, the petitioners seek writ of mandamus seeking direction to the respondents to allow them to join duty in pursuance to their selection.

In CWP Nos.440, 409,598, 637, 761, 828, 4169 and 15403 of 2007 the petitioners well permitted to be interviewed but their result of interview has not been declared.

The controversy involved in these writ petitions is as to whether the “Unit Education Instructor Course” undertaken by the petitioners from the Army Educational Corps Training College and Center, Panchmarhi (hereinafter referred as Training College) can be treated to be equivalent to J.B.T., so as to hold the petitioners eligible for appointment as JBT teacher in the State of Haryana.

For the sake of brevity, facts are being taken from CWP No.9925 of 2005. The petitioners in the writ petition were appointed as Junior Basic Training teachers, on the recommendation of Haryana Staff Selection Commission, but their services were terminated vide order dated 2.6.2005, which reads as under:-

“The order passed by the Director, Primary Education, Haryana issued vide No.16/27-01 Estt-II (I) dated 15.6.2001 on the basis of the decision of Hon'ble Punjab and Haryana High Court in Civil Writ Petition No.2988/2001- Prem Singh Vs. Haryana State, and the directions issued to all the District

Primary Education Officers vide order No.16/27-2001 Estt-II (I) dated 13.8.2001 and keeping in view the instructions issued vide order No.20/11-2004 Estt.II(4) dated 3.3.2005, those Ex-servicemen, who have been appointed on the posts of JBT Teachers and who are possessing the Unit Education Instructor Training Certificates which is of 3 months duration, is not equivalent to 2-years JBT/D.Ed course of Haryana State. The JBT Teachers with the following description working under this office also come within this purview:-

<i>Sr. No.</i>	<i>Name and Father's Name</i>	<i>Roll No.</i>	<i>Eligibility.</i>
1	Sh. Pardeep Kumar s/o Shri Ami Lal, Vill. Dadot (Mahendergarh) presently working in Govt. Primary School, Dadot	3889	Matric, U.E.I. Diploma and Graduation Certificate from Military.
2	Shri Suraj Pal s/o Sh. Narain Singh Vill. Pota, (Mahendergarh) presently working in Govt. Primary School, Kheri Talwana.	6717	B.A.-I, U.E.I. Diploma and Graduation Certificate from Military
3	Shri Hoshier Singh s/o Sh. Banwari Lal Village Ahmedawas, PO Bisalwas, Teh. Loharu (Bhiwani) Presently working in GPS Dhani Jajma.	11464	10+2 (open) UEI Diploma and Graduation Certificate from Military.

While affording opportunity of hearing to the aforementioned JBT Teachers, they were issued notice vide office order

No.District/JBT-05/05/4110, 4116 and 4126 dated 15.4.2005 to produce the proof in this regard and explain the position. In pursuance to this notice, all the JBT Teachers while submitting their reply personally, vide their letter dated 2.5.2005, only produced the certificates of the above said qualification, but no such proof was produced to the effect of equivalence/recognition of Unit Education Instructor with 2 years diploma of JBT/D.Ed from Haryana State. In these circumstances the aforementioned JBT Teachers are not eligible to continue in Govt. Job. I have examined the facts thoroughly from which it is clear that these teachers do not have anything in their defence. Therefore, keeping in view the decisions of the Hon'ble High Court, I hereby pass the order to terminate the services of the aforementioned teachers from the post of JBT Teachers with immediate effect-

Dated 24.5.2005

Sd/- (Vikas Gupta) IAS

Addl. Deputy Commissioner-
cum-Chief Executive Officer,
Zila Parishad, Narnaul.”

The petitioners in these writ petitions joined the defence forces, after completing their 10+2 from Haryana School Education Board. During the course of their employment with the army, they were deputed to “Instructor Training Course”, conducted by the Training College. All the petitioners successfully completed their course and were issued necessary

certificates. Certificate issued to one of the petitioners reads as under:-

“Serial No.XII/13 In lieu of IAFX-1952

ARMY EDUCATION CORPS TRAINING COLLEGE AND
CENTRE

INSIGNIA

Number 287838 Rank RFN Name Rajinder Parsad
Unit: Raj. Rif. C/o 56 APO has attended the Unit Education
Instructor's Course. Serial No.UEI-103 held from 07 Sep.,
87 to 12 Dec., 87 at this Training College and Centre and
has obtained grading 'AX' vide SAO 4/S/78.

Special Remarks:

Sd/-

Officer Incharge Course
Panchmarhi, Dated 28 Dec. 87

Sd/-

Lt.Col.
Instructor Class A
AEC Training College &
Centre for Commandant.”

In order to provide opportunities to the discharged/retired army officials, Central as well as State Governments have been framing rules and issuing instructions from time to time for their absorption in Civil Services, further in order to make them eligible to compete for the posts, the courses undertaken by the defence officials, during their service are given equivalence, for appointment to the post in civil services. Equation of the post is guided by the following principles:-

- “i) Job contents of trades in the Army.
- ii) Nature, type and length of training received by Army personnel.

- iii) Education and technical attainment of Army personnel.
- iv) Occupational suitability of Army tradesmen for particular civil occupation and employability in civilian trades.
- v) Aspirations of army personnel in view of their rank and position in the army.”

The Director General of Employment and Training, Ministry of Labour, Government of India prepared a directory of Equation of service Trades with Civil Trades. The Directory has been prepared to identify various trades, in the Armed forces, holder of which is eligible to be appointed after demobilization. The list has been prepared, with an object to help the ex-servicemen to apply for different posts on the basis of service rendered in the Armed Forces. Govt. Of India has been preparing directory since 1945. The Govt. has been including various trades in the directory. The Directory is aimed to help the Employment Exchanges in the country. The directory includes most of the trades, but is not exhaustive list, because with the change of time, new occupations and new trades are introduced in the defence services, so it is revised from time to time for civil equivalence of the army trades.

The latest directory was issued in 1986. Under the said Directory, Education Instructors' course has been equated with School Teacher Trade which reads as under:-

<i>Trade/Group/Branch/ Occupational Note</i>	<i>Qualifications</i>	<i>NCD Code No.</i>	<i>Civil Trade Equivalent.</i>
Instructor AEC (AEC) Instructs and organises classes for Army Ist Class Certificate of Education, Army 2 nd Class English Certificate and Hindi in Army 3 rd Class Certificate of Education. Is qualified in methods of instruction, Teachers Mathematics, Science, History, Geography, Citizenship, Hindi, English and map reading to soldiers.	Recruits and transfers from other arms/services . Education: Army Special Class Certificate or Matriculation	152.10 153.10 193.60	Middle School Teacher Primary School Teacher P.T. Instructor

Central Government has further, framed the rules known as Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979. Under these Rules, it has been provided that an ex-servicemen who has put in not less than 15 years of service in the armed forces of the Union, can be considered eligible for appointment to the post, for which essential qualification prescribed is graduation. The petitioners, therefore, claimed that their qualification is equivalent to graduation. Rule 6 and 6-A of the rules reads as under:-

“6. Special Provision regarding education qualification:

(1) For appointment to any reserved vacancy in Group 'D' posts, every Ex-servicemen who has put in not less than three years' service in the Armed Forces of the Union shall be exempt from the minimum education qualification, if any,

prescribed in respect of such posts.

(2) For appointment to any reserved vacancy in Group 'C' posts, the Appointing Authority may, at its discretion, relax the minimum education qualification, where such qualification prescribed is a pass in the Middle School Examination or any lower examination, in favour of Ex-servicemen who have put in at least three years' service in the Armed Forces of the Union and who are otherwise considered fit and suitable for appointment to such posts, in view of their experience and other qualifications.

(3) For appointment to any reserved vacancy in Group 'C' posts, to be filled partly by direct recruitment and partly by promotion or transfer, where the minimum education or technical qualification prescribed for appointment by direct recruitment is higher than that prescribed for promotees or transferees, an Ex-Serviceman shall be deemed to satisfy the prescribed educational or technical qualification, if he,-

- (i) satisfies the education or technical qualification prescribed for direct recruitment to the post from which promotion or transfer to the post in question is allowed; and
- (ii) has identical experience of work in a similar discipline and for the same number of years in the Armed Forces of the Union, as prescribed for promotees or transferees.

(4) For appointment to any reserved vacancy in Group 'C' posts, a matriculate Ex-serviceman (which term includes an ex-serviceman, who has obtained the Indian Army Special Certificate of Education or the corresponding certificate in the Navy or Air Force), who has put in not less than 15 years of service in the Armed Forces of the Union may be considered eligible for appointment to the posts for which the essential educational qualification prescribed is graduation and where,

- (a) work experience of technical or professional nature is not essential; or
- (b) through non-technical professional work experience is prescribed as essential, yet the Appointing Authority is satisfied that the ex-serviceman is expected to perform the duties of the post by undergoing on the job training for a short duration.

(5) For appointment to any reserved vacancy in Group 'C' and Group 'D' posts, where the prescribed minimum education qualification is matriculation, the appointing Authority may, at his discretion relax the minimum educational qualification in favour of an ex-serviceman who has passed the Indian Army Class-I Examination or equivalent examination in the Navy or the Air Force and who has put in at least 15 years of service in the Armed Forces of the Union and other qualifications.

Explanation- For the purposes of this rule, in computing the

period of three years' service, there shall be added any period of service which an ex-serviceman has rendered while serving in a corresponding post or posts in a civil department, or a Public Sector Undertaking or an autonomous organization, whether under the Central Government or any State Government, or in a Nationalized Bank to the period of service rendered in the Armed Forces of the Union.

GOVERNMENT OF INDIA'S ORDERS

(1) Relaxation of educational qualifications for entry into service in sub-rule (4) and (5) also applies for promotion. - It is clarified that the relaxation of education qualification granted to Ex-Servicemen for entry into services envisaged in sub- rules (4) and (5) of Rule 6 above, shall also apply for the purpose of promotion to the higher grade.

6-A Lower Standard for Selection

In the case of direct recruitment, if sufficient number of candidates belonging to the ex-servicemen are not available on the basis of general standard to fill all the vacancies reserved for them, candidates belonging to the category of ex-servicemen may be selected under a relaxed standard of selection to make up the deficiency in the reserved quota subject to the condition that such relaxation will not affect the level of performance by such candidates.”

As already mentioned above the petitioners in **CWP No.9925**

of 2005 Hawa Singh and others Vs. State of Haryana and others and in other connected cases were treated, to be qualified by the Haryana Subordinate Service Selection Board, for appointment as JBT Teachers and were appointed in the Primary Schools, in pursuance to their selection.

A notification dated 10.8.2005 was issued by the Haryana Government, vide which functional control of primary schools which was transferred to Zila Parishad/Municipalities, was rescinded and the schools were taken over by the State Government. In the notification while taking over the schools, it was provided as under:-

- “1. All actions taken by the respective Zila Parishad and Municipalities till the issue of this notification, as per provision of the notification dated 30. March 2001 will be valid for all intents and purpose.
2. Immovable/Moveable assests and liabilities vested in the Zila Parishad/Municipalities are re-vested back with Education Department. Any additional assets or liabilities created while Government Primary Schools were under the functional control of the Zila Parishad/Municipalities will also vest in the Education Department with immediate effect.
3. The services of JBT teachers of Education Department which were placed at the disposal of the Zila Parishads/municipalities will be taken back in Education Department and orders of declaring this cadre as a diminishing cadre is rescinded.
4. All the JBT teachers recruited by the Department and

Panchayats Department/Zila Parishads, will be merged in the cadre of JBT teachers of the Education Department, subject to the following terms and conditions, and on such JBT teachers giving an affidavit to the extent that such terms and conditions are acceptable to them. The terms and conditions on which the JBT teachers will be merged in the Education Department are as follows:-

- (i) Those Primary school teachers who are 10+2 and not Graduate (which is the present prescribed qualification) should complete graduation within a period of 5 years. If they fail to do so their services would be liable to be dispensed with thereafter.
- (ii) They should pass a test to be conducted by the Education Department. If they fail to do so their services would be liable to be dispensed with thereafter.
- (iii) The Police verification and Medical check up would be got done as required for new appointments to Government service.
- (iv) The genuineness of the certificate of education qualification would be got verified from the concerned University/Board of Education.
- (v) Such teachers working in the districts would be absorbed in the Government Schools in the respective district, as JBT Teachers are borne on the district cadre. While

doing so their present inter-se seniority would be protected.

- (vi) After such teachers fulfill condition (ii), (iii) and (iv) above they will be treated as new entrants in the Education Department from the date of issuance of notification and placed in the pay scale as applicable to the teachers recruited by the Government and governed by the Primary Education (Group-C) District Cadre Service Rules, 1994.”

It would be clear from the impugned order, that the petitioners were not found eligible, to hold the post, therefore, the order was passed to terminate their services.

The State of Haryana issued instructions on 15.9.1988 regarding giving of recognition to Military Qualification (Military Trades) as equivalent to the civil trades, as enshrined in the booklet for the purpose of recruitment to civil posts. The instructions issued read as under:-

“ I am directed to invite yours attention, on the subject noted above, and to say that the matter of treating military trades as equivalent to civil trades, for the purpose of appointment in civil posts, was under consideration of the Haryana Govt. for some time, and after consideration the Govt has decided that the trades of all ex-servicemen in different

forces would be considered as equivalent of civil jobs as mentioned in the booklet for the purposes of appointment in civil posts.

CC: a) Financial Commissioner and Secretary, Govt. Of Haryana, Revenue Deptt. Chandigarh.

b) All the Administrative Secretaries, Govt, of Haryana, Chandigarh.

Sd/- Under Secretary, Education

For Commissioner and Secretary, Govt. Of Haryana, Education Deptt.”

On 18.3.1975 State of Haryana issued instructions regarding recognition of qualifications for appointment. Instructions issued on 18.3.1975 read as under:-

“Subject: Regarding recognition to various qualifications for appointment.

Sir,

It is informed by inviting your attention on the subject noted above that the Government had been considering to change in the present policy of recognizing various qualifications. Now the Government has taken following decisions:

i) The degree and diplomas etc recognized by the Government of India, shall be recognized by the Government of Haryana.

ii) The degrees and diplomas etc issued by the recognized Universities and High/Higher Secondary Board established by the State shall be recognized ipso-facto.

iii) Besides it, if any reference has been received from some other State Government regarding rest of degrees/diplomas, that shall be inspected and these diploma/degrees etc. shall be recognized only on reciprocal basis.

iv) Besides it, requests for granting recognition are being made from some such institutions which do not fall in any of the three categories, and these institutions are mainly being run in the subject of music and art etc, and some have already been recognized. No general policy can be made regarding degrees/diplomas given by these institutions. If there is any such request, it can be considered on the merits.

In the above decisions, Universities shall mean such recognized Universities which:-

1. Have been incorporated by the law in any State of India.
2. In the case of certificate, diplomas and degrees conferred as a result of examination held before 15th August, 1947,

Punjab, Sind or Dacca Universities.

3. Any other University which is declared by the Government to be recognized.

But if the State Government de-recognizes or de-recognized, any degree of any University, that degree shall not be deemed to be recognized until the Government does not take an independent decision about it.

If any department of other State awards such certificates/diploma, on the basis of any kind of examination, which makes one eligible for appointments, and it requests for giving recognition to that certificate/diploma for the purpose of appointment shall compare the period, eligibility and syllabus etc. of such degree of other State with the degree used by our State. Thereafter, if it comes to a conclusion that there is no objection in granting recognition, on reciprocal basis to the degree of other State equivalent to such degree, it may make due recommendations to the Education Department so that necessary action may be taken on it.”

The case of the petitioners is that course undertaken by the petitioners at Training College, has been declared equivalent to JBT certificate by the Madhya Pradesh Government. The letter issued by the State of Madhya Pradesh in this regard reads as under:

“No.F 52/25/2000/C-3/38

To

The Principal,
UEC Training College and Centre,
Pachmarhi (MP)

Sub: Regarding recognition of UEI course equivalent to JBT Certificate.

Keeping in view the decision taken by the General Body in its meeting dated 29.5.2000, the UEI course conducted by the AEC Training College, Pachmarhi is declared equivalent to the JBT certificate.

(As per Orders)

Sd/-
Officer on Special Duty,
Higher Education Department”

The Adjutant General Branch of the Army addressed a letter to the Secretary Rajya Sainik Board Panchkula, conveying that the course undertaken by the petitioners has been declared equivalent to JBT teacher and has been so recognized by Barkatullah University.

The letter issued by the Adjutant General Branch reads as under.

“Telephone: 23012662

Adjutant General Brach.
CW-5, Room No. 404,
Sena Bhawan, A Wing
Army Headquarters
DHQ PO New Delhi-II
20 April 2004

B/47004/EQT/12/CW-5

Secretary,
Rajya Sainik Board,
Sainik Bhawan, Sector 12,
Panchkula (Haryana),

Equation of Service Trade with Civil Trades

1. Reference your letter No. 31/4/2003-4D-II dated 10 Mar 2004.
2. Diploma in teaching is awarded by AEC Training College and Centre, Panchmarhi which is an autonomous college of Barkatullah University, which is a Member of the Association of Indian universities (AIU) has automatic reciprocal recognition from other universities.
3. A copy of Department of Higher Education, Govt. Of Madhya Pradesh letter No. F/52/25/2000/C-3/38 dated 4/7/2000 is also enclosed herewith.

(P. Rana)
Col.
Dir. CW-5

Encl: (One)

For Adjutant General”

The matter regarding recognition as JBT Teacher was further conveyed by the ACE Training College and Centre, Panchmarhi. Letter issued by the Registrar reads as under:

“ACE TRAINING COLLEGE AND CENTRE,
PANCHMARHI (MP)

(An Autonomous College of Barkatulla Vishwavidyalaya-
Bhopal)

Major VK Sharma
STD) 07578
Telephone (Mil) 252206, 25228
252245, 252246 (S E A L)
Extn- 210/221
(Civ)- 252948(0) Panchmarhi (MP)-461881
20 NOV, 2004
21071/UEI/109/CI
No. 1085831K
Ex LD (TS)
Ramesh Kumar
S/o Shri Chander Bhan
Vill/P.O. Mehan,
Distt. Rohtak (Haryana)

RECONGNITION OF UNIT EDUCATION COURSE CERTIFICATE

1. Reference to your application dated 19 Nov. 2004.
2. It is intimated that ACE Training College and Centre, Panchamarhi is an Autonomous College affiliated to Barkatullah University, Bhopal. The Unit Education Instructor Course is equivalent to Junior Basic Teaching (JBT) Teacher in Civil & the same is recognized by MP State Govt.

Sd/- (V.K. Sharma)
Major,
Registrar,
For Commandant

Mr. G.K Chatrath, learned senior counsel appearing on behalf of petitioners by referring to the letters referred to above, and also with reference to instructions of the State Government vehemently contended that the course undertaken by the petitioners is to be treated equivalent to JBT Teachers, therefore, the impugned order of termination of the petitioners cannot be sustained, as the petitioners were wrongly held to be not eligible, to hold the post.

In support of this contention reliance was placed on the

Division Bench Judgment of this Court in the case of **Manoj Kumar and others Vs. State of Haryana and others 2007 (1) SCT 612**, wherein this Court laid down as under:-

“4. According to the instructions issued by the respondent-state on 18.3.1975 (Annexure P.6) all those degrees and diplomas which have been awarded by the recognized Universities and by the Boards established by the State Government for High/Higher Secondary, were ipso facto recognized. It has further been provided that those degrees and diplomas which are recognized by the Government of India are deemed to be recognized by the Government of Haryana. The afore-mentioned instructions have been reiterated again by another set of instructions issued on 2.11.1999 by the Financial Commissioner and Secretary to Government Haryana, Education Department. Those instructions have been placed on record in a connected writ petition namely CWP No. 12187 of 2006 as Annexure P.18. Even otherwise we find that once the University Grant Commission has accepted the qualification which is recognized as a deemed University then it would not be within the competence of respondent state to refuse recognition of such qualification. This question has repeatedly been considered by Hon'ble the Supreme Court in numerous Judgments. In the case of *University of Delhi v.*

Raj Singh, 1995(1) SCT1 (SC): AIR 1995 SC 336 certain qualifications for appointment of Lecturer were laid down by the University Grants Commission (Qualifications required of a person for appointment to the teaching Staff of a University and Institutions affiliated to it), Regulations, 1991. The University of Delhi refused to accept those regulations as binding by arguing that various provisions of Delhi University Act, 1922 grant them autonomy. The Hon'ble Supreme Court while interpreting Section 3 of the University Grants Commission Act, 1956 along with Sections 12A(2) and Section 26(1)(c) came to the conclusion that the regulations were binding on the University. The conflict which was sought to be brought before Hon'ble the Supreme Court by arguing that the Delhi University Act has granted complete autonomy to them has been resolved by referring to entry 66 in List 1 of Seventh Schedule.

6. On the basis of principle as well as precedent mentioned above, it must be concluded that a diploma certificate issued by a deemed university like Rajasthan Vidya Peeth has to be held as valid because the University Grant Commission vide its notification dated 19.8.2003 has conferred upon Rajasthan Vidya Peeth, Udaipur, the status of deemed University under Section 3 of the 1956 Act. Once it is so, then the respondent-State or any of its agencies cannot be

permitted to de-recognize such degree or diploma, because such an action on their part would be repugnant to the provisions of Article 254 of the Constitution of India. We are further of the view that the argument of the learned State counsel that only those certificate courses are accepted by the respondent-state which are from an institution approved by the Haryana Government cannot be accepted as it would amount to keeping out of eligible candidates merely because they have obtained their qualifications from a University or an Institution out side the State of Haryana. However, such a course would not be available to the respondent-State because other institutions located in the country have been conferring the similar type of diploma certificates which are in no way inferior to the one approved by the respondent-state. As per their own instructions dated 18.3.1975 all those degrees and diplomas which have been awarded by the recognized universities and by the Boards established by the State Government for high/higher secondary were ipso facto recognized. The instruction further provided that those degrees and diplomas which are recognized by the Government of India are deemed to be recognized by the respondent-state. There is nothing contrary in the instructions issued on 2.11.1999 and therefore, the diploma certificate issued by the Rajasthan Vidya Peeth must be

recognized as a requisite qualification fulfilling the requirement of multipurpose health workers training course as postulated by the advertisement dated 7.5.2006.

7. In view of the above, order dated 16.7.2006 (Annexure P-3) issued by respondent No. 3 is hereby quashed. The multipurpose health workers training course of 18 months conferred upon the petitioner by Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur, a deemed university (Annexure P-2) is declared to be valid diploma. As the Petitioner No. 4 has secured more marks than the last selected candidate, the respondents are directed to appoint him on the post of multipurpose health worker (Male) in general category with effect from the date other persons in his category has been appointed. The petitioners shall be entitled to all consequential benefits except arrears of pay. The needful shall be done by the respondents within a period of one month from the date of receipt of copy of this order.”

Reliance in support was also placed on the judgment of this court in the case of **Hari Kishan Vs. State of Haryana 1994 (1) SCT 224.**

Learned senior counsel for the petitioners raised an additional plea, that even if for the sake of arguments it is taken that the petitioners did not fulfill the qualification, in that event also, services of the petitioners could not be terminated as under Rule 6-A as the essential qualifications in

case of ex-servicemen could be relaxed. The petitioners having been selected and appointed, therefore, would be deemed to have been appointed by relaxing of qualification. There was, thus, no justification, whatsoever, to terminate the services of the petitioners.

In support of this contention learned senior counsel for the petitioners referred to Rule 6-A reproduced above.

Learned senior counsel for the petitioners also placed reliance on the judgment of this court in **CWP No.12420 of 2003 titled Union Territory, Chandigarh Vs. Daljit Singh Duhan & Ors.** decided on 12.08.2003, wherein the order passed by the learned Central Administrative Tribunal, Chandigarh, was upheld wherein the qualification of the petitioners was held to be equivalent to JBT. The order passed by the Division Bench of this court reads as under:-

“ Prayer made by the applicants in Original Application No.1038/CH/2002 with regard to treating the diploma in teaching granted by ACC Training College & Centre Panchmarhi (M)) equivalent to the Diploma/Certificate in Basic Teacher Training or JBT Certificate/Diploma has been accepted by Learned Central Administrative Tribunal vide impugned judgment rendered by the said Tribunal on 5.3.2003. It is against this judgment the present petition has been filed.

Equivalent of the two courses, referred to above had been ordered on the basis of circular issued by the ministry of Labour Government of India (D.G.E.&T.), in 1985 on the

subject of equation of trades of the Indian Armed Forces with the civil occupation to facilitate registration of Ex-Servicemen for the purpose of employment as also on the basis of judgment of Hon'ble Delhi High Court in Lajja Ram Bhardwaj Vs. M.C.Delhi CWP No.6650 of 2001, decided on 12.2.2002. No. occasion at all arises to interfere with the findings recorded by learned Central Administrative Tribunal equating the two courses as referred to above.

No merits.

Dismissed.”

Civil Appeal No.556 of 2007 against the judgment of Division Bench of this court referred to above was disposed of.

Mr.A.S.Ghangas, learned Additional Advocate General, Haryana, on the other hand, referred to the Division Bench judgment of this court in the case of **Azad Singh & two others Vs. State of Haryana & Ors. CWP No.8882 of 1997**, wherein this court held that the persons holding qualifications held by the petitioners could not be considered eligible for the recruitment as JBT Teacher. The operative part of the judgment of the Division Bench reads as under:-

“ We have thoughtfully considered the rival contentions and have carefully perused the record of the case as well as the Photostat copies of the documents produced by Shri Jaswant Singh. We have also gone through the Director of Equation of

Service Applicants for employment issued by the Directorate General of Employment & Training Ministry of Labour, Government of India.

ii) (E.Q.) The Candidate should have passed JBT (2 years course)/Diploma in Education (2 years course)/Condensed Course from Haryana Education Department.

OR

JBT (2 years course) from Jamia Millia University New Delhi,

Examination of Diploma (2 years course) and whose result is yet to be declared by the Education. Department/University, can also apply for the post of JBT Teacher.

However, their selection will be subject to the result of B.Ed (2 years course) Examination.”

The Certificate issued in favour of the petitioners in lieu of their having attended the Unit Education Instructor Course is also extracted below for reference purpose.

“ARMY EDUCATION CORPS TRAINING COLLEGE &
CENTRE

No. 3155849 Rank L/NK Name AZAD SINGH

Unit 5 Jat Regiment C/o 56 APO

attended UNIT EDUCATION INSTRUCTORS COURSE

Serial No. 61 from 17 Sep 73 to 22 December 73 at this
Training College and Centre and is grade by (vide SAO

39/S/69). He is fit to teach up to and for Army

Third Class certificate of Education.

(see reverse)

Any special remarks: Nil
Sd/- LT. Col.
Chief Instructor
Panchmarhl

Sd/- Colonel
Attested
Sd/-
Dhull N.K
Lecturer HES-II
Govt. College Jind

Assessment

(In accordance with SAO 39/S/69 amended vide AO 440/72)

Grading	Marks in Tests	Knowledge	Symbols

	Minimum in each test	Aggregate	Knowledge Instruct
.....			
Distinguished	30 to 100%		<i>Distinguished (Outstanding and fit to be an Instructor)</i>
Above Average	60 % 50 to 79%	A	X
Higher Average	50% 60 to 69%	B	Y
Average	35 % 46 to 59%	C	Z
Failed	Upto 39%		

Annexure P-6 is the letter by which rejection of the candidature of the petitioners has been conveyed to them on the ground that they do not possess JBT Diploma from a recognized institutions. Circular dated 18.3.1975 lays down that the degrees, Diploma etc. recognized by the Government of India shall be treated as recognized by the Government of Haryana. Perusal the memo dated 06.02.1995 (Annexure P-7 to CWP

8882 of 1997) and Annexure P-9 show that the candidates having certificate of Instructor issued by Army Educational Corps have been treated equivalent to JBT of Haryana, and a person having Army Certificate Class-II is eligible for appointment as Teacher upto 7th Class. However, none of these documents shows that the Unit Education Instructors Course passed by the petitioners has been recognized as equivalent to Diploma in JBT. In the absence of such recognition, it is not possible to accept the argument of Shri Arora that the decision of the Board to reject the candidature of the petitioners is arbitrary or unjust. The decision taken by the Government of Haryana regarding the recognition of the Military Trades as contained in the letter dated 15th December, 1988 shows that the Government of Haryana has recognized the Military Trades as equal to Civil Trades as indicated in the book-let issued by the Director of Employment Entry No. 45 of this book-let which relates to instructors read as under:-

<i>Sr. No.</i>	<i>Trade/Group/Branch occupational Note</i>	<i>Qualification</i>	<i>NCO Code No.</i>	<i>Civil Trade Equivalent</i>	<i>Remarks</i>
1	2	3	4	5	6
XX	XX	XX	XX	XX	XX

<i>Sr. No.</i>	<i>Trade/Group/Branch occupational Note</i>	<i>Qualification</i>	<i>NCO Code No.</i>	<i>Civil Trade Equivalent</i>	<i>Remarks</i>
45	Instructor AEC (AEC); Instructor and organized Classes for Army 1 st class Certificate of Educational, Army 2 nd Class English Certificate and Hindi in Army 3 rd class certificate of Education. Is qualified in methods of instruction, Teaches mathematics Science, History, Geography, Citizen-ship, Hindi, English and map reading to Soldiers.	Recruits and transfers from others arms/services Education Army Special Class Certificate or Matriculation	152.10 153.10 193.60	Middle School Teacher Primary School Teacher P.T Instructor	

From the above extracted portion of book-let it is not possible to infer that the Unit Education Instructors course has been recognized by the Government of Haryana for the purpose of appointment as Teachers.

A Look at the certificate issued in favour of petitioner- Azad Singh shows that he had undergone training for a short period of three months. At present the duration of this course was one year. Thus, there cannot be any justification to treat the training course undergone by the petitioners as equivalent to JBT Diploma. In any case, it is not the function of the court to declare a particular qualification as recognized even though the employer has not taken such decision. This issue has been considered in Director, AIIMS & others V.Dr. Nikhil Tandon & others: (1996) 7 SCC 741. While accepting the appeal filed by the employer on the issue of recognition of

qualifications, the Supreme Court observed:-

“The two years” training at the Cambridge University undergone by the respondent while working for his Ph.D cannot be treated as a qualification or qualification recognized as equivalent thereto. It is not mere equivalence that is enough. It must also be recognized as equivalent Recognized evidently means recognized by the institute or at least by the Medical council of India. Admittedly, neither has recognized the said research work/training for two years in the Cambridge University as equivalent to DM.”

The Ratio of the judgment of the Supreme Court in the afore mentioned case is directly attracted in the instant case.

In view of the above discussion, we hold that the petitioners are not entitled to be considered for recruitment as JBT Teachers and the decision of the respondent-Board has not suffer from any error of law.

Consequently, the writ petition is dismissed.”

Learned counsel for the State also placed reliance on the judgment of this court in the case of **Sawarn Singh & Anr. Vs. State of Haryana & Ors. CWP No.16231 of 2008**, wherein the writ petition filed by the candidates holding qualification similar to the petitioners was not considered eligible for appointment, was ordered to be dismissed in view of the Division Bench judgment of this court in the case of **Azad Singh & two**

others Vs. State of Haryana & Ors. (supra).

The question raised in the writ petitions is required to be interpreted by taking into consideration, the fact that the rules for appointment of ex-servicemen in civil services is a beneficial piece of legislation, which is required to be interpreted liberally in favour of the ex-servicemen so as to advance the object of the Rules and Instructions issued, from time to time.

On consideration, I find force in the contentions raised by the learned senior counsel for the petitioners.

It may be noticed here that subsequent developments regarding recognition of qualification of petitioners as equivalent to JBT by Barkattullah University were not brought to the notice of Hon'ble Single Judge and it was on account of this that the Hon'ble Single Judge was pleased to hold that in view of the Division Bench judgment of this court, there was no merit in the writ petition filed by the petitioners seeking equivalence to JBT course.

It may be noticed that Madhya Pradesh Government has recognized the course undertaken by the petitioners, to be equivalent to JBT and in pursuance thereto the Adjurant General Branch of Army had addressed a letter to the Secretary Rajya Sainik Board, Panchkula, conveying that University of Barkatullah, Bhopal had recognized the Unit course certificate as equivalent to Junior Basic Teaching (JBT) in civil services. If this fact of recognition with Madhya Pradesh Government and University of Barkatullah, Bhopal is taken and read with the Division

Bench judgment of this court in the case of **Manoj Kumar and others Vs. State of Haryana and others (supra)**, no other conclusion than the one, that the course of the petitioners was to be treated to equivalent to JBT can be arrived at.

The writ petitions filed by the petitioners, also deserves to be allowed on additional ground also that is under Rule 6-A of the Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979, there is provision for relaxing the standard of selection to make up the deficiency in the reserved quota subject to the condition that such relaxation was not to affect the level of performance on such candidates.

It is not the case of the respondents, that in pursuance to the selection there was any defect in performance in the duties of the petitioners when they served in Schools when it was under the control of Zila Parishad/Municipalities. Therefore, their selection could very well be protected under Rule 6-A of Ex-Servicemen (Re-employment in Central Civil Services and Posts) Rules, 1979.

Consequently, CWP Nos. 9925, 11351 and 9986 of 2005, 15666, 16649, 18144 of 2006, 5330 and 6148 of 2007, 9428 of 2006 and 13348 of 2009, are allowed. The impugned order of termination of services of the petitioners is set aside. The petitioners in these writ petitions shall also be entitled to all consequential benefits.

For the reasons recorded, CWP Nos. 2337 of 2005 and 1537, 16055 and 15371 of 2006, are allowed. A writ of mandamus is issued directing the respondents to issue appointment letter to the petitioners in

these writ petitions in pursuance to their selection as JBT Teacher.

For the reasons recorded CWP Nos.440, 409,598, 637,761, 828,4169 and 15403 of 2007, are allowed and a writ or mandamus is issued directing the respondents to declare the result of interview of the petitioners for the posts reserved for ex service man by treating them as qualified for the posts.

No costs.

9.03.2010
rp

(Vinod K.Sharma)
Judge