

COCP No.1456 of 2014
COCP No.1400 of 2014

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1) COCP No.1456 of 2014
Date of decision:04.05.2015

Manju Rani and others ...Petitioners

Versus

Anjali Bhawara and another ...Respondents

(2) COCP No.1400 of 2014
Date of decision:04.05.2015

Rajni Gupta and others ...Petitioners

Versus

Anjali Bhawara and another ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Alka Chatrath, Advocate,
for the petitioner(s).

Mr. Anant Kataria, AAG, Punjab.

Rakesh Kumar Jain, J.

This order shall dispose of two petitions bearing COCP Nos.1456 and 1400 of 2014 as both are inter-connected. However, for the sake of convenience, the facts are extracted from COCP No.1456 of 2014.

The petitioners have initiated contempt proceedings against the respondents for alleged willful disobedience of the order dated 19.02.2014 passed by this Court in LPA No.999 of 2013 titled as “**State of Punjab and others v. Smt. Jyoti Jindal**”.

In brief, the Education Department, Punjab, advertised 7654

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posts of various categories including 713 posts of Hindi Masters/Mistresses on 23.09.2009. The petitioners applied for the post of Hindi Masters/Mistress. The Education Department, Punjab prepared the merit list on the basis of the particulars provided by the applicants. After the counselling, the candidates were appointed including one Jyoti Jindal who had merit No.62.1167, without considering the claim of the petitioners who are higher in merit than her. When it was brought to the notice of respondent No.1, a show cause notice was served upon the persons lower in merit including Jyoti Jindal who had challenged the show cause notice for termination of his service by way of CWP No.25579 of 2012. The said petition was allowed on the ground that the candidates, who may be higher in merit than the writ petitioner in the provisional merit list, do not participate in the counselling, then they would not be entitled for consideration for appointment in pursuance to that counselling process. The State of Punjab filed LPA No.999 of 2013 in CWP No.25579 of 2012, challenging the order of the Single Judge dated 06.05.2013. The said appeal was ultimately disposed of on 19.02.2014 in the following terms:-

“In view of above, we allow both the appeals. The judgment passed by the learned Single Judge is set aside. The appellant-State is directed to give appointment to those candidates, who are higher in merit as per the merit list now prepared against the available vacant posts.

If any candidate is not satisfied with the merit list, so prepared, he shall have the liberty to challenge the

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same.

Before doing the exercise, grievance of the petitioners in writ petition viz. Civil Writ Petition No.978 of 2014 and the intervenors be also considered and speaking orders be passed qua their claim to the posts. Necessary exercise be done within six weeks from today.”

It is averred in this petition that the petitioners had supplied copy of the order dated 19.02.2014 to the Department of Education, Punjab but the order has not been implemented as no appointment has been given to the petitioners, therefore, the respondents have intentionally disobeyed the order of this Court.

After notice, the reply has been filed by way of affidavit of Director Public Instructions (Secondary Education), Punjab, in which it is averred that in compliance of the order dated 19.02.2014, the claim of the petitioners in CWP No.978 of 2014 as well as interveners was re-considered. It is alleged that there is provision of 10 marks as per the selection criteria in lieu of teaching experience, obtained by the applicant after passing the requisite qualifications. It was a specific condition in the advertisement dated 23.09.2009 that the Teaching Experience Certificate must be countersigned by the concerned District Education Officer. As the Teaching Experience Certificate of the petitioners of CWP No.978 of 2014 as well as the interveners were not countersigned by the concerned District Education Officer, therefore, the same were not taken into consideration at

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the time of determination of their merit.

In order to redress the grievance of the petitioners and the interveners, the Department got examined the matter regarding grant of marks of experience as it was found at the time of determination of merit of all those candidates, who were granted marks for experience, their Teaching Experience Certificate was countersigned only by the authorities of the Board. The State Government took a decision to verify the Teaching Experience Certificates of all the already appointed candidates as well as the petitioners in CWP No.978 of 2014 and interveners, whose Teaching Experience Certificates were signed by the officers of the concerned School Education Board only.

The Committee was constituted on 13.08.2011 comprising of Deputy Director (School Administration), Assistant Director (Secondary Education), Nodal Officer (Legal Cell), office of the Director Public Instructions (Secondary Education), Punjab and the Superintendent Educations-2 Branch, Punjab Civil Secretariat-2, Chandigarh, to redetermine the merit accordingly for 356 posts. The Committee verified the fact as to whether the candidates have actually served in that particular school or not for which the claim has been made and after verifying the facts of each case, a revised selection list was prepared and was submitted on 31.10.2014 in which it was found that the merit of the last selected candidate in the General Category for the post of Hindi Masters/Mistresses in revised list was 62.4221.

The name of Preeti, petitioner no.2 in COCP No.1456 of 2014,

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fall in the zone of selection and she was given appointment letter on 05.11.2014, which is also attached as Annexure R-1 with the reply. The claim of petitioners No.1, 3 and 4 in COCP No.1456 of 2014 was found unsustainable because their merit, as per the revised result, was 62.3667, 62.4000 and 62.4166 respectively, whereas the merit of the last selected candidates was 62.4221. Insofar as the petitioners in COCP No.1400 of 2014 are concerned, all have been given appointment letters as all were higher in merit than 62.4221, as per the revised result. In the end, an unqualified and unconditional apology is tendered for the delay in implementation of the orders passed by this Court.

I have heard learned counsel for the parties and examined the available record and found that the order passed by this Court on 19.02.2014 has been duly complied with and petitioner no.2 in COCP No.1456 of 2014 and all the petitioners in COCP No.1400 of 2014, who were found eligible, have been issued appointment letters and petitioners No.1, 3 and 4 in COCP No.1456 of 2014, who were below the cut-off marks in the merit list, could not have been given appointment letters and have been rightly declined.

In view of the aforesaid discussion, I do not find any merit in both the petitions and hence, the same are hereby dismissed.

Rule is discharged.

May 04, 2015
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(Rakesh Kumar Jain)
Judge