

In the High Court of Punjab and Haryana at Chandigarh.

**COCP No. 474 of 2015
Decided on 07.12.2015**

Naresh Kumari

--Petitioner

Vs.

C.Roul and another

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Kapil Kakkar, Advocate, for the petitioner

Mr.Vinod S.Bhardwaj, Addl.A.G.Punjab, for the respondents

Rakesh Kumar Jain,J: (Oral)

The petitioner applied for the post of Vocational Mistress (Computer Science) pursuant to an advertisement dated 23.9.2009 by which applications were invited to fill up 7654 posts on contractual basis in the teaching and non teaching cadre in the Department of Education. The petitioner was at serial No.40 in the reserved category having secured 50.1429 marks.

The petitioner initially filed CWP No. 17696 of 2012, seeking

a direction to the respondents to consider her case and give appointment. The said writ petition was disposed of with a direction to the respondents to decide the claim of the petitioner within three months. However, the respondents rejected the claim of the petitioner in September, 2013 which was again challenged by the petitioner by way of CWP No.21090 of 2013 (O&M). The said writ petition was allowed on 10.11.2014 directing the respondents to consider the claim of the petitioner within 30 days on receipt of a certified copy of the order keeping in view the observations made by the Court in the said order.

The respondents did not consider the case of the petitioner in terms of the aforesaid order. Therefore, the present contempt petition has been filed in which notice of motion was issued on 25.2.2015 in which the respondents were called upon to file status report. In response to order dated 25.2.2015, the respondents filed an affidavit of Balbir Singh, Director Public Instructions (SE), Punjab dated 05.10.2015, as per which the petitioner has been given contractual appointment vide Annexure R-1 w.e.f. 01.10.2015.

The petitioner contested the contractual appointment by filing rejoinder. Today, counter affidavit has been filed by the same authority who had earlier filed the status report in which it is averred that in terms of condition No.3 of the advertisement dated 23.9.2009, the appointments for all categories were to be made on contract basis on consolidated pay initially for a period of one year which could be extended further on the basis of the work and conduct up to the next year and after completion of three and half year, regular appointment was to be given subject to the satisfactory work and conduct.

In this regard, learned counsel for the petitioner has referred to an order passed by the respondents in the case of Manpreet Kaur to whom contractual appointment was given but since she filed CWP No. 3221 of 2014, the respondents in order to avoid any adverse order, gave her regular employment within three months.

In this regard, learned counsel for the respondents has referred to para 6 of the counter affidavit filed on 07.12.2015 as per which Manpreet Kaur was in Physically Handicapped (Ortho) Category and due to inadvertence, her counseling could not take place in the Handicapped Category and as soon as it was realised by the department, three and half years contractual service was waived. It is submitted by learned counsel for the respondents that case of Manpreet Kaur is different from the case of the petitioner because her writ petition was allowed in Nov, 2014 and thereafter the respondents filed the LPA No. 1436 of 2015 which has now been dismissed.

Learned counsel for the petitioner has submitted that the said LPA was filed during the pendency of the contempt petition and after three days, it was withdrawn. He has submitted that had the respondents followed the order dated 10.11.2014, the petitioner would not have come to this Court and incurred huge expenses.

After hearing learned counsel for the parties and keeping in view the facts and circumstances of this case, I am of the view that the respondents has not explained the delay for not complying with the order passed by this Court except for tendering unconditional apology. I am further of the view that the petitioner had to file two writ petitions and the contempt petition incurring huge expenses and has to wait unnecessary

even for contractual appointment. Thus, this petition is disposed of with a direction to the respondents to pay Rs.50,000/- as costs which shall be paid to the petitioner by way of a Demand Draft, within a period of 15 days from the date of passing of this order.

07.12.2015
rr

(Rakesh Kumar Jain)
Judge