

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

**COCP no. 3653 of 2012(O&M)
Date of Decision : 14.08.2015**

Kamla Devi

....Petitioner

Versus

Smt. Surina Rajan, IAS and another

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr. Ram Niwas Sharma, Advocate for the petitioner

Ms.Shruti Jain Goyal, AAG, Haryana

MAHESH GROVER, J.

CM no. 9207-CII of 2015

Allowed as prayed for. With the consent of parties, main contempt petition is taken on board today.

Main case.

Short reply by way of affidavit of R.S.Kharb, Director, Elementary Education, Haryana, Panchkula has been filed in the Court today and the same is taken on record. A copy thereof has been supplied to the counsel opposite.

The writ Court passed the following orders:-

“In view of the above, the present writ petition is allowed. The orders dated 22.2.2007 and 27.7.2007 (AnnexureP-5 and Annexure P-6 respectively) are hereby quashed. The directions are issued to the Commissioner and Director General School Education, Haryana – respondent no.2 to consider the claim of the petitioner for appointment to the

post of Hindi or Sanskrit teacher, in accordance with 2003 Rules. This exercise be completed within a period of three months from the date of receipt of certified copy of the order. The decision, so taken, be conveyed to the petitioner forthwith.”

The petitioner was claiming compassionate appointment. A perusal of the aforesaid would indicate that the writ Court had mandated the respondents to consider the claim of the petitioner for appointment to the post of Hindi or Sanskrit Teacher in accordance with 2003 Rules, which rules pertain to the compassionate appointments and financial assistance in the event of an employee dying in harness. Pursuant thereto the respondents have passed an order dated 13.8.2015 offering the appointment to the petitioner on the post of Clerk instead of a Sanskrit/Hindi Teacher as per the directions of the writ Court. The reason for denying the petitioner appointment to the post of a Teacher is in terms of the 2012 Rules. Haryana School Education (Group C) State Cadre Service Rules, 2012 making the condition of passing the STET/HTET test compulsory.

Learned counsel for the petitioner contends that in view of the clear mandate of the writ Court the decision taken by the respondents is clearly intended to circumvent the orders of this Court and is therefore contumacious.

On due consideration of the matter, I am of the opinion that writ Court had merely mandated a consideration for appointment to the petitioner to the post of Hindi/Sanskrit Teacher in accordance with 2003 rules which talk of compassionate appointments and do not prescribe the service conditions for public employment. If the respondents on

consideration have concluded that the petitioner cannot be appointed as a Teacher in view of the prevailing rules then they cannot be held to be guilty of violating the orders as consideration has been offered and whether such a consideration is justified or not would be a matter to be agitated before the Court in appropriate proceedings in case the petitioner has any dissatisfaction against it.

For the present since the respondents have offered a consideration in terms of the mandate of the writ Court, the contempt petition is disposed of as having rendered infructuous leaving the petitioner to her remedies in law.

August 14, 2015
rekha

(Mahesh Grover)
Judge