

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

CWP No. 4710 of 1994 (O&M)

Date of Decision : 18.03.2015

Smt.Santosh Kumari Jain

.... Petitioner

vs.

State of Haryana & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Rajesh Bansal, Advocate
for the petitioner.

Ms.Shruti Goyal, AAG, Haryana.

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

AJAY TEWARI, J. (Oral)

By this writ petition, the petitioner has challenged the termination of her services and has claimed that in her place the services of the respondent No.4 should have been terminated. Respondent No.4 was appointed as J.B.T. Teacher in the Jain Primary School, Panipat on 20.08.1967 while the petitioner was appointed as a J.B.T. Teacher on 01.12.1981.

It is the stand of the petitioner that the respondent No.4 left the job in the Jain Primary School and was appointed as a JBT Teacher in the Jain High School on 01.04.1990. Thereafter since the managing committee did not get sanction for grant for that post in the Jain High School, the

respondent No.4 was sent back to the Jain Primary School. Over there in the interregnum the number of sanctioned posts had reduced and after the re-employment of respondent No.4 there were 7 persons against 6 sanctioned posts.

It is further the case of the petitioner that in the year 1994 she had filed a writ petition bearing CWP No.3285 of 1994 for claiming some benefits and on the receipt of the notice the management terminated her services. It is thus prayed that the order of termination of the services of the petitioner be set aside and she may be re-instated with all consequential benefits.

Learned Assistant Advocate General appearing for respondent No.1 and 2, however, states that as per the written statement filed on behalf of respondent No.3, the Jain Primary School and the Jain High School were being run by the same managing committee and the respondent No.4 had been transferred from one school to the other and it was not a case of termination of services from the Jain Primary School and fresh appointment in the Jain High School. Thereafter he was re-deployed in the Jain Primary School and on his re-deployment it transpired that against six sanctioned posts there were seven persons working and it was in these circumstances that the petitioner being the junior most had to be relieved.

Having gone through the paper book I find that no material has been placed by the learned counsel for the petitioner on the record to show that respondent No.4 had resigned from the Jain Primary School or that he had been offered fresh appointment in the Jain High School. It has also not been denied in the replication that the two schools are run by the same managing committee. In the circumstances it has to be held that on his re-

deployment in the Jain Primary School respondent No.4 was senior to the petitioner.

Learned counsel for the petitioner has argued that a perusal of Annexures R-1 to R-11 clearly reveals that the petitioner has been made a victim of circumstances because as per him, even if the above said contentions of the respondents are accepted, yet the fact remains that the only reason that respondent No.4 had to be re-deployed in the Jain Primary School is the fact that the management did not seek sanction of the post in the Jain High School in time and that was the only reason that that sanction lapsed and respondent No.4 had to be sent back to the Jain Primary School. This may be so, but the issue before this Court as has been projected in this petition is whether the petitioner has a preferential right to be retained back in job vis-a-vis respondent No.4. As per the material on record, as mentioned above, I have had to hold that respondent No.4 never resigned from the Jain Public School and was never re-appointed in the Jain High School.

No other argument has been raised.

In these circumstances the petition is dismissed.

(AJAY TEWARI)
JUDGE

March 18, 2015
sunita