

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

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Civil Writ Petition No. 6502 of 1994

Date of Decision: 11th March, 2015

Jai Kumar and others

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM: Hon'ble Mrs. Justice Daya Chaudhary

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

Present: Mr. Rajeshwar Singh Thakur, Advocate
for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

DAYA CHAUDHARY, J.(Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to appoint petitioners No.1 to 4 against the posts of Maths Masters and petitioners No.5 to 9 against the posts of Science Masters in the order of merit determined by the Departmental Selection Committee against the posts of Mathes Masters and Science Masters which were available as on 08.10.1992 and came into existence till 31.03.1994 in terms of directions issued by Hon'ble the Apex Court vide order dated 08.10.1992 in SLP No.4275 of 1992.

Learned counsel for the petitioners submits that a specific direction was issued by Hon'ble the Apex Court and an undertaking was also given by the

counsel appearing for the State that fresh merit list would be prepared and all the selected candidates would be considered against the vacancies which would arise during the period of one year. Learned counsel also submits that inspite of the aforesaid specific directions, the case of the petitioners has not been considered. It is also the argument of learned counsel for the petitioners that despite of passing a specific direction by this Court on 18.01.2010, the relevant information has not been furnished which has caused great prejudice to the interest of the petitioners. Learned counsel also submits that the petitioners were entitled to be appointed against the said posts as per the undertaking given by the State counsel at the time of hearing of SLP.

Learned State counsel submits that the petitioners were having remedy in case any undertaking given by the State counsel was not complied with. Moreover, on the basis of undertaking and the direction issued by Hon'ble the Apex Court, a merit list have was prepared and all candidates who were in the merit list have been appointed. Even in the order dated 08.10.1992 passed by Hon'ble the Apex Court, it was specifically mentioned that total 5070 candidates have already been selected and appointed and thereafter only 2015 posts of JBT Teachers, 275 posts of Masters Secondary School, 47 posts of Lectures Secondary School, 592 posts of C&V Teachers and 23 posts of Social Study Teachers were available. The merit list was prepared on the basis of result of interview by considering each category and the viva-voce test which was

conducted as per direction issued by Hon'ble the Apex Court. Learned State counsel also submits that the petitioners are working on regular basis since the year 2003 and they have no cause of action to file this petition. Learned State counsel also submits that it has not been mentioned in the petition as to what was their merit and whether the persons who are in the merit list have been selected or not. Learned State counsel further submits that a specific affidavit of Assistant Director Masters-I office of the Director Secondary Education, Haryana, Chandigarh was filed wherein the marks of the petitioners have been mentioned and the marks obtained by the last selected candidate was also reflected as 42.8 marks.

Heard arguments of learned counsel for the petitioners as well as learned State counsel and have perused the documents on the file including affidavit dated 19.07.2010 filed by Savitri Devi, Assistant Director Masters-I Office of the Director Secondary Education, Haryana, Chandigarh.

It is apparent that the petitioners except petitioner No.5 (Ashwani Kumar who has obtained 45.2 marks) were having less marks than the marks obtained by the last selected candidate and nothing has been mentioned about the marks obtained by the petitioner, namely, Jai Kumar. In the order dated 25.04.1995, it has been mentioned that the petitioner, namely, Ashwani Kumar who has got 45.2% marks can be accommodated as Science Master and the same

has been complied with vide order dated 12.07.1995. Learned counsel for the petitioners is unable to show any record or any document with regard to the fact that the petitioners have got higher marks than the last selected candidate. One of the petitioner, namely, Ashwani Kumar who was having more marks than the last selected candidate has already been appointed as Science Master. Moreover, the selection is of the year 1990 and to disturb that selection at this stage would not be justified as the petitioners are already working and they have been regularised as well.

No ground is made out to interfere with the petition at this stage on merits as well as due to passage of considerable time. The present petition being devoid of any merit is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

11.03.2015

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