

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 2866 of 1998 (O&M)

Date of decision : April 29, 2015

Dr. Rita Gupta,

..... Petitioner

v.

The State of Haryana and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms. Neelofer A Parveen, Advocate
for the petitioner.

Ms. Shruti Goel, AAG Haryana

Mr. CS Singh, Advocate
for Mr. Ramesh Hooda, Advocate
for respondent No.4.

- 1. Whether Reporters of Local Newspapers 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)

The petitioner was earlier working as a Lecturer in the S.D College of Education for Women, Narwana, which was closed down in April 1984. However, she was absorbed by the direction of the Government in respondent No.4-College. The claim is that she be granted selection grade after considering her service in the SD College.

Counsel for the petitioner has argued that the benefit has been declined on an erroneous reading of clause 1 of the UGC Guidelines

(Annexure R/III) which is to the following effect :-

- “1. Previous service without any break as a Lecturer or equivalent in a University, College, National Laboratory or other scientific organizations (CSIR, ICAR, DRDO, UGC etc) and as a UGC Research Scientist should be counted for placement of lecturers in Senior Scale/Selection Grade provided that :
- a) the post was in an equivalent grade/scale of pay as the post of a lecturer;
 - b) the qualifications for the post were not lower than the qualifications prescribed by UGC for the post of lecturer;
 - c) the Lecturers concerned possessed the minimum qualification prescribed by UGC for appointment as Lecturers;
 - d) the post was filled in accordance with the prescribed selection procedure as laid down by the University/State Government;
 - e) the appointment was not adhoc or in a leave vacancy of less than one year duration.”

As per the learned counsel, the respondents have denied the relief to the petitioner only on account of the fact that there was a break in service of few months between the time SD College was closed down and the petitioner was absorbed in respondent No.4-College. As per her, condition No.1 only lays down that there should not have been break in the previous service and actually there was no break in the previous service of the petitioner. She has relied upon the decisions in Dr. Romila Jain v. State of Haryana, 1995(3) RSJ 807, Hoi Ram v. State of Haryana, CWP No.15970 of 1996, decided on 13.2.2001, and Tajvir v. State of Haryana, 2009(1) RSJ 120.

Counsel for the State of Haryana has, however, argued that in similar circumstances, CWP No.3214 of 2002, R.P Chillar and others vs State of Haryana and others, was filed and a Division Bench of this Court, after relying upon the decisions in Dr. Romila Jain's case (supra) and Hoi Ram's case (supra) came to the same conclusion that is being advocated by

counsel for the petitioner that the bar created in the policy referred to a break in previous service and not break between the closure of one College and absorption in another College. However, the State of Haryana carried the matter upto the Hon'ble Supreme Court and ultimately, by order dated 10.03.2010, Civil Appeal No. 998 of 2005, State of Haryana and others vs R.P Chillar & others was decided in the following terms :-

“ The appeal is dismissed in terms of the signed order. No order as to the costs.

However, we make it clear that the impugned judgment and order of the High Court shall not be treated as a precedent.”

Counsel for the respondents has further argued that as regards the decision in Tajvir's case (supra), in that case the petitioner therein had actually worked and, thus, the said decision would not be applicable to the present case. As regards the decisions in Dr. Romila Jain's case (supra) and Hoi Ram's case (supra), the said decisions were referred to by the Division Bench of this Court in CWP No.3214 of 2002 (supra), but the Hon'ble Supreme Court having held in the order dated 10.03.2010 (quoted above) that the said judgment cannot be treated as a precedent can only mean that the reasons which weighed with this Court were not approved by their Lordships of the Hon'ble Supreme Court and consequently on that basis, no relief can be granted to the petitioner.

I find that the reasons being advanced today are identical to those which weighed with the Division Bench of this Court in CWP No.3214 of 2002 (supra). I also agree with the contention of counsel for the respondents that in terms of the decision of the Hon'ble Supreme Court in Civil Appeal No. 998 of 2005 (supra), the reasons which weighed with the

Division Bench of this Court in CWP No.3214 of 2002 (supra) cannot be made the basis for grant of any relief to the petitioner in the present case. Consequently, finding no merit in this writ petition, the same is dismissed with no order as to costs.

April 29, 2015
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(AJAY TEWARI)
JUDGE