

CWP No. 10793-2011

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

CWP No. 10793-2011 (O & M)

Date of Decision: 16.01.2015

Jagbir Singh and others

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the 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 ?

Present: Mr. Jitender S. Chahal, Advocate,
for the petitioners.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the action of the respondents in not absorbing the petitioners in the Government Department in spite of direction of the Hon'ble Supreme and for issuance of a direction to the respondents to consider the case of the petitioners for absorption in view of policy issued by the Govt. on 21.06.2006 considering the case of retrenched employee of the Board/Corporation etc.

Brief facts for disposal of the present case are to the effect that the petitioners were engaged as teachers/instructors under the aegis of an Adult Education Scheme purely on part-time basis on a fixed

CWP No. 10793-2011

honorarium. The said Scheme was abolished by the State Government and services of the petitioners were terminated on 28.02.1990 without giving any notice. On account of discontinuation of the Adult Education Scheme, apart from the petitioners, the services of other part-time Instructors were terminated w.e.f 28.02.1990. At that point of time, some of the petitioners herein as also other similarly situated persons had approached the Hon'ble Supreme Court in Writ Petition (C) No.503 of 1992 titled as 'Karamvir Singh and others vs. State of Haryana and others with a plea that they were entitled to the absorption in Government service and an order dated 17.11.1992 (Annexure P-1) was passed to the following effect:

“In the facts and circumstances of this case we direct the State of Haryana to consider these petitioners and all others similarly situated for absorption in the State-Services to the posts to which they are eligible and can be considered in accordance with the Rules and Instructions. The said consideration shall be done as and when the vacancies for these petitioners are made available. While complying with the directions issued by us the State of Haryana shall keep into consideration similar directions issued by this court in earlier cases. The State may also take into consideration the administrative exigencies which may arise. The petitioners shall be entitled to age relaxation as and when they are absorbed in the Government service. The writ petition is disposed of with the above directions. No costs.”

On 14.11.1999, the State Government issued an

CWP No. 10793-2011

advertisement inviting applications for filling up 2127 posts of Social Studies Masters. At that point of time, the petitioners filed CWP No.4651 of 2002, titled Raj Kumar Sandhu vs. State of Haryana and others' with the averments that directions had already been issued by the Hon'ble Supreme Court in respect of their absorption and, accordingly, such directions be complied with firstly prior to making fresh appointments by way of direct recruitment in pursuance of the advertisement dated 14.11.1999. The said writ petition was disposed of by this Court vide order dated 19.03.2002 (Annexure P-5) with a direction to State Government to consider the case of the petitioners in the light of order dated 17.11.1992 passed by the Hon'ble Supreme Court in the case of Karamvir Singh's case (supra). However, the claim of the petitioners seeking absorption stands rejected in the light of impugned order dated 23.4.2002 (Annexure P6). Hence, this petition.

I have heard learned counsel for the parties and perused the record.

The controversy involved in the present writ petition has already been dealt with by a Coordinate Bench of this Court in CWP-11573-2002, titled 'Raj Singh Sandhu and others vs. State of Haryana and another, decided on 30.05.2013, wherein it has been held as under:

“8. Learned counsel for the petitioners have not been able to dispute the factual position that the subsequent order dated 6.9.1993 passed by the Hon'ble Supreme Court at Annexure P5 'Jai Karan and others v. Union of India and others' was also in relation to employees

CWP No. 10793-2011

whose services had been dispensed with on account of closure of an Adult Education Scheme, and such employees were seeking directions as regards absorption. Undoubtedly, an order dated 17.11.1992 at Annexure P1 had been passed by the Hon'ble Supreme Court in the case of some of the petitioners, yet the State Government while taking a decision on the claim as regards absorption and, accordingly while passing the impugned order dated 19.4.2002, Annexure P4, could not have proceeded oblivious of a subsequent order passed by the Apex Court on the same very issue i.e. services of employees having been dispensed with upon dis-continuation of an Adult Education Scheme and thereafter raising a claim for absorption. The order dated 6.9.1993 was categorical and the relevant observations were in the following terms:

“We can not give directions to the State Govt. or the Central Govt. to continue the schemes since that is the executive policy of the Govt. as regards the absorption of the petitioners is concerned, since the posts have been abolished, equally we can not give direction for absorption. But as and when any vacancies for regular recruitment in any other department are being advertised, if the petitioners are found eligible for applying for, it is open to them to apply for and in that event they are likely to be overaged, the concerned recruitment agency would receive the applications, consider their eligibility and in case if they are found to be eligible and fit for appointment and they are barred by age, then the age relaxation may be granted by the competent authority at the proof that the petitioners had worked in the schemes and necessary appointments may be given subject to fulfilment of other conditions. With these observations, the writ petitions are dismissed.”

9. *Even otherwise, even if the claim of the petitioners was to be considered in isolation and only against the backdrop of the order dated 17.11.1992 passed by the*

CWP No. 10793-2011

Hon'ble Apex Court at Annexure P1, still no case is made out. In such order dated 17.11.1992, directions had been issued to the State of Haryana to consider the case of the petitioners therein as also all other similarly situated for absorption in the State services to the post to which they are eligible in accordance with the Rules and Instructions. Insofar as the post of Social Studies Masters is concerned, the relevant statutory Rules governing the service recognized only three modes of recruitment i.e. i) 50% by direct recruitment; ii) 50% by promotion from amongst the JBT/C&V teachers having three years experience on the post of JBT/C&V teacher or iii) by deputation of the persons already in service. As such, it is clear that the claim of the petitioners seeking absorption to the post of Social Studies Masters even if accepted would amount to recognizing yet another mode of recruitment which would be alien to the statutory Rules and the same would not be covered in the light of order dated 17.11.1992 at Annexure P1.

10. For the reasons recorded above, no case for interference is made out. Writ petitions, accordingly, stand dismissed.”

The matter in hand is squarely covered by the judgment rendered in ***Raj Singh Sandhu (supra)***. Accordingly, following the reasons mentioned in ***Raj Singh Sandhu (supra)***, instant petition is disposed of in the same terms.

No order as to costs.

16.01.2015

parveen kumar

**[Paramjeet Singh]
Judge**