

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

C.W.P. No.17334 of 2011

Date of Decision : 23.03.2015

Paramjeet

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. S. P. Chahar, Advocate
for the petitioner.

Ms. Shruti Goyal, A.A.G., Haryana.

Mr. J.S. Sidhu, Advocate
for respondents No.2 to 4.

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)

The claim in the present petition is for issuance of direction to the respondents to permit the petitioner to join on the post of Special Teacher (Visually Impaired) in compliance with appointment letter dated 04.01.2011 under Sarva Shiksha Abhiyan.

The admitted facts are that the petitioner was issued the appointment letter dated 04.01.2011 (Annexure P-1). He was asked to join by 18.01.2011 after getting his medical fitness certificate. Immediately thereafter he approached the Medical Officer who found that he himself was

visually impaired (which fact had already been disclosed in his application). On the strength of that medical certificate he approached the respondent No.4 who sought a clarification from the respondent No.2 as to whether he should be appointed to teach visually impaired students vide letter dated 12.01.2011 (Annexure P-2). It is not disputed that during this interregnum another person who was completely blind was permitted to join on the similar post for teaching visually impaired students. As regards the letter (Annexure P-2) correspondence continued between the respondents No.2 and 4 and ultimately he was asked to again appear for a medical test and by medical certificate dated 01.07.2011 (Annexure R-2) the medical officer certified him to be not disqualified for employment. When the petitioner again approached the respondents for permitting him to join his request was rejected on the ground that too much time had lapsed and he did not move an application for extension of joining time before the date fixed therefor.

Learned counsel for the petitioner has argued that once his case was before the respondents as early as 12.01.2011 and the matter was being discussed in the office there was really no occasion for the petitioner to have moved an application for extension of joining time and in these circumstances the delay in getting the medical clearance or the delay in filing an application for extension of joining time can not have the affect of disentitling the petitioner from being permitted to join.

Learned counsel for the respondents No.2 to 4 has argued that despite the fact that the issue regarding the condition of the petitioner was alive in the office it was incumbent upon the petitioner to have moved an application for extention of joining time.

In my opinion, if a person is seeking extension of joining on account of some personal circumstances of course this argument would suffice but where a selected candidate has done whatever is expected of him within the time granted and the delay in joining is only because of the confusion in the mind of the employer, such a strict interpretation cannot be insisted upon. As mentioned above, immediately after receiving the appointment letter the petitioner approached the concerned medical officer and then again approached the respondent No.4 but he was not allowed to join while another blind candidate was allowed to join. Once that was so, it was incumbent upon the respondent No.4 to have permitted the petitioner to join but he however embarked on a clarification process which was also ultimately decided in favour of the petitioner. In these circumstances, the ground taken by the respondents to deny the permission to the petitioner to join is clearly unreasonable.

Resultantly, the petition is allowed. The respondents are directed to permit the petitioner to join within 15 days from the date of receipt of a certified copy of this order. The petitioner would be entitled to all consequential benefits except pay and allowances for the earlier period. However, if the respondents do not permit the petitioner to join within the time granted he would be entitled to claim the pay and allowances also.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 23, 2015*ashish***(AJAY TEWARI)
JUDGE**