

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 1474 of 2013
Date of decision: 11.08.2015

Monika & others
State of Punjab & others

Versus

....Petitioner(s)
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Harinder Sharma, Advocate, for the petitioners.
Mr.A.P.S.Mann, Addl.A.G., Punjab.

G.S.SANDHAWALIA, J.

1. Prayer in the present writ petition is for quashing of order dated 19.10.2012 (Annexure P7), whereby the respondent No.2 has declined the request of the petitioners for appointment by granting another chance of counselling. Accordingly, a writ in the nature of mandamus has been prayed for to grant a chance of counselling for the scrutiny/verification of their documents and to issue order of appointment on the ground that persons lower in merit had been appointed.

2. It has been noticed by the respondents that public notices were issued for various counselling as per merit and the second phase of counselling, in pursuance to the public notice dated 28.06.2011, was conducted from 06.07.2011 to 11.07.2011. The information was given regarding the counselling as per the notices published in various newspapers and there was no provision to inform the applicants through the postal department. The petitioners having been absent from the process of scrutiny of the original documents, were not liable to be considered.

3. Counsel for the petitioners has placed heavy reliance upon the judgment passed in CWP No.13421 of 2011 titled *Mona Rani & others Vs. State*

of Punjab & others, decided on 17.02.2014.

4. Counsel for the State, on the other hand, has placed reliance upon the judgment of the Division Bench in LPA No.1781 of 2014 titled *Loveleen Kaur Vs. The State of Punjab & others*, decided on 03.11.2014.

5. The case of the petitioners is that on 23.04.2009, the Department of Education had issued a public notice for recruitment of 7654 posts in various teaching and non-teaching cadres. The petitioners had applied and were allotted registration numbers and a provisional merit-list had been prepared. The public notice had been put for calling the candidates in April, 2010, for the posts of Art/Craft Teachers, Vocational Master/Mistress and for non-teaching posts, for the first time and thereafter, another notice was put up for calling candidates in the teaching cadres in July, 2010. The petitioners could not attend on the given dates belonging to deep rural areas and persons lower in merit were appointed. Petitioners had represented and had served a legal notice on 14.02.2012 and thereafter, they had to approach this Court whereby a direction was issued in CWP No.6398 of 2012, to consider the same, which led to the passing of the impugned order.

6. In the written statement, filed by the respondents, it has been further clarified that after notices dated 09.07.2010, another notice was issued on 28.06.2011 (Annexure R1/2) wherein candidates were called on dates between 06.07.2011 to 11.07.2011. The petitioners did not attend the counselling and their merit and eligibility could not be determined at the time fixed for the scrutiny of the original documents. The selection process had already been completed in furtherance with the advertisement. Accordingly, the order passed was justified.

7. After hearing counsel for the parties, this Court is of the opinion that there is no merit in the present case. Admittedly, the petitioners had failed to appear on the dates fixed between 06.07.2011 to 11.07.2011. Thereafter, they sent

a legal notice dated 14.02.2012, after a period of more than 7 months. In the legal notice, it was mentioned that they did not attend the first counselling and their only grouse was that the persons lower in merit had been appointed. In such circumstances, a direction was issued to consider their case. The case has been rightly rejected as it is not disputed that even the second counselling was not attended by them, as has been averred by the State in its reply.

8. The fact remains is that the advertisement is of the month September, 2010 and the second advertisement was of the year 2011. The process of selection cannot continue for all times to come and the petitioners have no vested right for appointment against the said advertisement. The curtain has to come down on the process, as has been averred by the respondents. It is not the case of the petitioners that any individual letters were issued to other candidates who are duly selected and the petitioners were left out or there was any such requirement to do so. The Division Bench of this Court, in similar circumstances, regarding the same selection, in the case of *Loveleen Kaur (supra)*, upheld the judgment of the Single Bench in CWP No.24837 of 2012 and dismissed the appeal by holding as under:

“We find that the appellant cannot claim any direction for further counseling having failed to appear for the counseling on 7.7.2011. In response to a public notice, many candidates, including some of juniors to the appellant, have appeared for counseling. Once the appellant has failed to appear on a specific date, no grievance can be entertained so as to direct the respondent to hold another counseling. Learned Single Judge has rightly declined to interfere in the order passed by the respondents declining the representation of the petitioner.”

9. This Court is bound to follow the said view. The reference to the case of *Mona Rani (supra)* by counsel for the petitioners, is of no avail, since in the said case, the petitioners therein had attended the second counselling and were higher in merit but had not been issued appointment letters. Keeping in view the said facts, the writ had been allowed. In the present case, the facts are not at par and

therefore, the said judgment would not be applicable.

10. Resultantly, the present writ petition is dismissed.

11.08.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE