

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 17052 of 2014

Reserved On : October 31, 2015

Pronounced On : 18.11.2015

Jagbir Singh Petitioner

vs.

State of Haryana and others Respondents

Case No. : C. W. P.No. 17054 of 2014

Reserved On : October 31, 2015

Pronounced On : 18.11.2015

Dilbagh Singh Petitioner

vs.

State of Haryana and another Respondents

Case No. : C. W. P.No. 20220 of 2014

Reserved On : October 31, 2015

Pronounced On : 18.11.2015

Sandeep Kumar Petitioner

vs.

State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Manoj Makkar, Advocate
for the petitioner.

Mr. Karan Sharma, AAG, Haryana.

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DEEPAK SIBAL, J. :

The present judgment would decide three cases - **C. W. P. Nos. 17052, 17054 & 20220 of 2014** as the issues of fact and law raised in the same are similar. However, for the sake of convenience, facts have been extracted from **C. W. P. No. 17052 of 2014 – Jagbir Singh vs. State of Haryana and others.**

The petitioner, who was recruited as a Computer Instructor by the respondents on contract basis, seeks his adjustment on regular basis in the light of order dated 21.01.2013 passed by the Apex Court in **SLP No. 9230-31 of 2009, SLP No. 16389-16415 of 2009 and SLP No. 18074-18094 of 2009.**

The relevant facts, in brief, which have emerged after hearing counsel for the parties and perusal of the record, are that on 14.11.2006, the petitioner was appointed as a Computer Instructor on contract basis. While serving as such, he, along with other similarly situated persons, knocked the doors of this Court through **C. W. P. No. 5460 of 2007 – Jagbir Singh and others vs. State of Haryana and others** seeking a direction that he be

allowed to continue to serve the respondents till such time that regularly selected candidates are appointed. A Division Bench of this Court disposed of the writ petition by issuing the following directions :-

- “1. That the petitioners shall not be entitled to continue in service, when regularly selected candidates, on completion of on going process are appointed against the posts, the petitioners are holding at present.*
- 2. In case the department decides to close down any trade in any institute, incumbent of those posts will have no right to continue. However in case that very trade is opened in any other institute and if former teachers are available, they be offered the posts in the first preference.*
- 3. In case the department of vocational education is merged with the department of secondary education, the petitioners will continue to work on the same terms and conditions under which they are working now and will leave the post when regularly selected candidates are appointed against*

*terms or in case on account of availability
of regularly staff their services become
surplus.”*

Aggrieved by the above quoted directions, the State of Haryana approached the Apex Court, wherein on the basis of an affidavit filed on behalf of the State of Haryana, vide order dated 21.01.2013, the Apex Court was of the opinion that the respondents before the Apex Court, which included the petitioner, if eligible, be accommodated on humanitarian grounds. Though the petitioner was a respondent before the Apex Court, he was not given the benefit of adjustment on the ground that through order dated 08.04.2011, his services had been terminated, and therefore, on the date when the Apex Court passed the order, he was not in service.

Whether the aforesaid grounds, on which the petitioner was denied adjustment, are justifiable, is the issue, which is raised before this Court for determination.

The record clearly reveals that the petitioner was a respondent before the Apex Court, when on the basis of an affidavit filed on behalf of the State of Haryana, the Apex Court had formed a definite opinion that the respondents therein be adjusted on humanitarian grounds. The only thing, which stood between the petitioner and his adjustment as a Computer Instructor in terms of the order dated 21.01.2013 of the Apex Court, was the order dated 08.04.2011 through which, his services had been terminated.

The facts, which have emerged from the record, further reveal that this hurdle stood demolished through order of this Court dated 04.10.2011 passed in a bunch of petitions including **C. W. P. No. 6620 of 2011 – Jagbir Singh vs. State of Haryana and others**, wherein the aforesaid termination order was challenged and quashed, being in violation of principles of natural justice. Though liberty was granted to the respondents to proceed against the petitioner in accordance with law, it is the admitted case between the parties that no such liberty was availed of. Thus, the only impediment between the petitioner and his adjustment in terms of the order of the Apex Court dated 21.01.2013 stood removed paving the way for him for being granted the benefit of the order dated 21.01.2013 passed by the Apex Court.

There is one issue raised on behalf of the State of Haryana, which needs to be dealt with. As per the learned counsel for the State, when in spite of order dated 04.10.2011 passed in **C. W. P. No. 6620 of 2011 – Jagbir Singh vs. State of Haryana and others**, quashing the order of termination of his services, the petitioner was not reinstated, he had filed a Contempt Petition being **COCP No. 23135 of 2011 – Jagbir Singh vs. Pardeep Kumar Dahiya**. In this Contempt Petition, while observing that the petitioner had been relieved from his contractual assignment on account of unsatisfactory work, the contempt proceedings against the alleged contemnors were dropped. However, the petitioner was granted liberty to

compete afresh as and when the post was advertised and it was further directed that the alleged unsatisfactory work and conduct of the petitioner shall not be taken into account while considering his case, if he applies, to deny him appointment in the near future. It is stated on behalf of the respondents that since the petitioner, in spite of notice, never applied afresh, his claim, as sought to be raised in the present petition, needs to be denied.

After considering the issue raised on behalf of the State, I reject the same and the reasons for forming such an opinion are that the order passed in the contempt proceedings is dated 18.01.2012, which is much prior in time to the order passed by the Apex Court on 21.01.2013, wherein a specific opinion was expressed by the Apex Court for adjustment of all the respondents before the Apex Court on humanitarian grounds. The petitioner, being a respondent before the Apex Court, is entitled to the relief granted by that order. In view of the later order dated 21.01.2013 of the Apex Court, there was no need for the petitioner to apply afresh. The only hurdle, which stood between the petitioner and his adjustment, was the order of termination of his services dated 08.04.2011, which admittedly stood removed by this Court vide its order dated 04.10.2011, on quashing of the same, in a writ petition preferred by the petitioner challenging the termination of his services.

In view of the above, I have little hesitation in holding that the petitioner would be entitled for adjustment as a Computer Instructor in

terms of the order dated 21.01.2013 of the Apex Court passed in **SLP No. 9230-31 of 2009**, **SLP No. 16389-16415 of 2009** and **SLP No. 18074-18094 of 2009**, with all consequential benefits, as granted to the similarly situated employees, who were adjusted as per the above mentioned order.

The writ petition stands allowed in the above terms.

No costs.

(DEEPAK SIBAL)
JUDGE

Pronounced On : 18.11.2015

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