

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

Civil Writ Petition No.19085 of 2015

Date of decision: 1.10.2015

Karnail Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms.Sonia G. Singh, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

The petitioner has been granted partial relief by the Department inasmuch as he has been appointed as Math Master vide order dated 28.7.2014 [P-3] in the general category pursuant to the directions issued by this Court in CWP No.2128 of 2012 decided on 8.8.2013 but the appointment has not been ante-dated to 1994 when the petitioner was appointed as Math Master and had worked continuously and uninterruptedly till the passing of the order dated 28th July, 2014 [P-3].

A few facts may be noted. The petitioner competed for the post of Math Master in the advertisement published in the year 1992. Though the petitioner was within the zone of consideration being higher in merit but he

was not offered appointment which led him to file CWP No.2128 of 2012

which was decided on 8.8.2013. In the process of implementation of that order, the petitioner has been appointed as Math Master vide order dated 28.7.2014. It transpires that while the petitioner was litigating under the first advertisement, the Department issued second advertisement where he was successful and was appointed as a Math Master on 12.12.1997. The petitioner claims that he deserves to be given his seniority position from the first advertisement as per merit determined by the recruiting agency. In this manner, the petitioner claims seniority for the period when the candidates were appointed under the first advertisement and the period in between till he was appointed under the second advertisement i.e. for getting the benefit of about 4 years additional weightage in seniority. The appropriate authority has not examined this request made by the petitioner through a legal notice dated 16.1.2015 and nothing has been communicated to him in this regard.

Mr.Sonia G. Singh requests that a time bound direction be issued to the decision-maker amongst the respondents to consider and decide the legal notice by passing a speaking order after hearing the petitioner.

The request is fair and reasonable and deserves to be accepted in order to know the view of the Administrator on the moot issue before this Court examines the decision in case it is adverse to the interest of the petitioner.

Consequently, a direction is issued to the decision-maker to decide the legal notice within six weeks from the date of receipt of a certified copy of this order. In case, the benefit of seniority from 17.12.1997 to 2014 deserves to be given, since he has been working as Math Master

since then, the petitioner need not be heard and the benefit can percolate through office order. However, in case, an adverse order is contemplated, then hearing would be required and passing of a speaking order containing reasons for the decision arrived at would become necessary. After the decision, the respondents will within 7 days of the decision communicate it to the petitioner. In the making of the decision, the present petition be treated as a supplementary representation since the case has been stated therein exhaustively. However, nothing in the order will be taken as an expression of opinion of this Court on the merits of the dispute.

With with directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

October 1, 2015

Paritosh Kumar