

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

CWP No. 19786 of 2015 (O & M)

Date of decision: 16.10.2015

Rajpal Singh Shergill and others

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Mr. J.S. Pannu, Advocate,
for the applicant-petitioners.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 13505 of 2015

Application for placing on record judgment dated 12.03.2013 in
LPA No. 1214 of 20125 as Annexure P-5 is allowed, subject to all just
exceptions.

The same is taken on record.

CWP No. 19786 of 2015

The petitioners seek the relief of decision of the legal notice
dated 14.12.2014 (Annexure P-3) wherein, they have claimed seniority, pay
fixation, pension from the year 2001 on the ground that other candidates
were selected and appointed against the post advertised in the year 2001
whereas, they were given appointments on 24.01.2014 against the same
advertisement.

On a first blush, the prayer seems to be very innocuous.
However, a perusal of the appointment order dated 20.01.2014 (Annexure
P-2) would go on to show that the petitioners were appointed in pursuance

of the directions of this Court in LPA No. 1214 of 2012 decided on 12.03.2013 (Annexure P-5). A perusal of the judgment of the Division Bench would go on to show that the petitioners' writ petitions had been dismissed by the Single Bench for appointment as Physical Training Instructors against the advertisement dated 28.03.2001 on the ground that selected candidates had not been impleaded and the applications were made in the year 2001 and the case was decided by the Single Bench on 20.04.2012 and in such circumstances, the relief was denied. The Division Bench noticed that out of 3551 posts, 562 posts were still vacant and 119 posts had been kept reserved in compliance with interim orders of this Court passed in CWP No. 12222 of 2012. It was in such circumstances, the appeals were allowed and the petitioners were given the benefit of appointment. However, a caveat was put that they would be treated as fresh appointees if they are selected. The relevant portion reads thus:-

“In these circumstances, this appeal is disposed of with a direction to the respondents to consider the candidatures of the appellants to the posts of Physical Training Instructors and in case, the appellants are found suitable for appointment to those posts, they shall be given appointments against available posts. This will be treated as fresh appointments. However, the process shall be completed within three months. It is, however, made clear that when the appellants had applied for the posts in questions, they were well within their age limits and their candidatures would not be rejected on this ground. However, they will be treated as fresh appointees if they are selected.”

The above said directions are as much binding upon the petitioners as they are upon the State. It is not the case of the petitioners

that the orders of the Division Bench were appealed against and got modified by filing special leave petition. In such circumstances, the claim for the seniority and deemed date of appointment from 2001 and the right for consideration of fresh benefits before the State Government is an illusory claim which cannot be granted and, therefore, no mandamus can be issued in such a background.

Accordingly, the writ petition is dismissed in limine.

16.10.2015
shivani

(G.S. SANDHAWALIA)
JUDGE