

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

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Civil Writ Petition No.23165 of 2014

Date of Decision: July 09, 2015

Harjinder Kaur D/o Sh. Joga Singh R/o VPO Mehtabpur, Tehsil Mukerian,
Distt. Hoshiarpur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sukhdev Kamboj, Advocate
for the petitioner.

Ms. Puneet Kaur Sekhon, Additional Advocate General, Punjab,
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court impugning the memo/order dated 22.07.2014 (Annexure P-18) passed by the Director Public Instructions (Secondary Education), Punjab, by which the claim of the petitioner for appointment to the post of Punjabi Mistress has been rejected on the ground that she had not attended the counselling on 07.07.2011. In the reply filed in the writ also, the same ground was taken, however, when the records were called for, it so transpired that as a matter of fact, the petitioner did attend the counselling but her claim was not considered only because a wrong application number was mentioned. Actually, the registration number mentioned was 20023230 instead of 20036149. The stand, therefore, taken by the respondent for rejecting the claim of the petitioner, has been found to be not borne out from the records.

As per the averment made by the petitioner in the writ petition,

20 posts of Punjabi Mistress were unfilled out of the total advertised posts

for the Ex-servicemen Category and the petitioner could be appointed against the said post. Counsel for the respondents, on instructions, states that all these 20 posts have been re-advertised by including the same in the subsequent selection process in the year 2012 and, therefore, the petitioner cannot be granted the appointment on the said post.

This assertion of the counsel for the respondents cannot be accepted in the light of the fact that till date the selection process qua the advertised posts is not complete and the posts are still lying vacant. Mere inclusion of the posts in the subsequent selection process by way of an advertisement would not extinguish the right of a candidate, who has established her right for appointment after she has been found to be meritorious for appointment and denied the same illegally by the respondents. It is not disputed that the last candidate, who has been appointed in the category of Ex-servicemen Dependent (General) Category, has obtained equal marks as that of the petitioner and there being posts available, the petitioner was entitled for appointment to the post of Punjabi Mistress.

Counsel for the respondents has agitated the point of delay by asserting that the selection process had come to an end in the year 2011 and the petitioner has approached the respondents only in the year 2014.

This contention cannot be accepted keeping in view the fact that the rejection order of the claim of the petitioner dated 22.07.2014 (Annexure P-18) does not indicate such an aspect, rather it only states that her claim has been rejected as she had not attended the counselling, which ground has been found to be incorrect on facts. Further, her claim has never been rejected on the ground of delay and the petitioner has never been

intimated about the fact that she has never participated in the counselling prior to the passing of the impugned order.

In view of the above, the present writ petition is allowed. The impugned order dated 22.07.2014 (Annexure P-18) is hereby set aside. The appointment letter be issued to the petitioner within a period of four weeks from today. Petitioner is held entitled to all consequential benefits from the date person similarly situated as the petitioner, has been granted the appointment i.e. Amandeep Kaur daughter of Resham Singh except the actual salary, which shall be paid to her from the date of filing of the present writ petition i.e. 05.11.2014.

July 09, 2015

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**