

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

CWP No.27976 of 2013
Decided on: 05.12.2015

Simarjeet Kaur

.... Petitioner

vs.

State of Punjab & ors.

.... Respondents

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

Present: Mr. Mukand Gupta, Advocate
for the petitioner.

G.S.Sandhawalia, J.(Oral)

The petitioner challenges the order dated 25.04.2013 (Annexure P-11) vide which respondent No.2 has dismissed her application for appointment to the post of Art and Craft teacher on account of not being present in the interview on 09.07.2011, as per the schedule given in the public notice. The plea of higher merit was thus, rejected. The reasoning given by the respondent is that the date was notified in the press and the selection was carried out in pursuance of advertisement dated 23.09.2009. The contention that the petitioner was residing in a village and there was no computer and internet available in the village and she was a handicapped person having 60% disability suffering from polio and also expecting a baby was not sufficient ground for consideration. The same would amount to revising the entire selection process to accommodate such absentees, who could not be present on the notified date for one reason or the other.

The facts are not disputed that the merit list was prepared and the petitioner had secured on 50.79 marks, which were more than

the last candidate who secured 48.38 and 44.93 marks. In the second phase of the counselling on the basis of merit list the date fixed for interview was 09.07.2011. It is apparent that the petitioner did not appear on that date on account of the reasons noticed above. However, it is to be noticed that the petitioner made a related representation on 23.05.2012 after almost one year. The matter was thereafter brought to this Court whereby a direction was issued on 21.01.2013 to consider the case of the petitioner on the request made in pursuance of which the present impugned order was passed, which is subject matter of challenge.

It is not disputed that in similar circumstances this Court in **CWP No.1474 of 2013** titled as **Monika & ors. vs. State of Punjab & ors.** has noticed that the process of appointment cannot go on for ever while relying upon the judgment passed by a Division Bench of this Court. In the said case also there was a delay of more than seven months from the date fixed for appearance for selection and the filing of the legal notice regarding the same advertisement. It was accordingly held as under:

"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.

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."

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.

Resultantly, the present writ petition is dismissed.”

Keeping in view the above observations, this Court is of the opinion that the reasoning which has been given by respondent No.2 is justified and valid that the appointments made are not to be reviewed at this stage.

Accordingly, the writ petition is dismissed.

05.12.2015
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(G.S.SANDHAWALIA)
JUDGE