

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5177 of 2013

Date of Decision: 20.10.2015

Darshan Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kapil Kakkar, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

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

RAJIV NARAIN RAINA, J.

1. The conceded position is that the additional affidavit filed by Salwinder Singh, District Education Officer (Elementary Education), Gurdaspur did not disclose the correct factual position. The explanation given by Mr. Manuja on instructions received is that the officer had joined soon before the affidavit was put up for signatures and thus he failed to exercise due care and caution in verifying facts before deposing to them. Contrary to the affidavit vacancies in the Physically Handicapped category existed and still do. The confusion in the mind of the deponent sought to be justified with reference to contents of para.8 of the additional affidavit dated May 18, 2015 that the post in the Physically Handicapped category had been exhausted and there was no vacant post left in the category of Orthopaedically Handicapped whereas there were vacancies available

among the three types of categories of Physically Handicapped, the other being visually impaired, physically handicapped and hearing impaired. It is for these categories where the earmarked quota had been filled.

2. Be that as it may on the facts now before this Court, this petition deserves to be allowed and the petitioner would become entitled to consideration for appointment as a Teaching Fellow in the Education Department in District Gurdaspur in elementary school cadre so that the mandates in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 are satisfied and the prescribed percentage is achieved within the subject matter selection process.

3. Accordingly, this writ petition is allowed. The impugned order dated January 24, 2013 (P-10) is quashed. A writ of mandamus is issued to the respondents to consider offering appointment to the petitioner within 14 days from the date of receipt of a certified copy of this order after completing the formalities and following due procedure. The petitioner would join service in the time allowed in the offer of appointment. The seniority of the petitioner will run from the date when the person in his category was appointed as Teaching Fellow. The monetary benefits including full pay and allowances will accrue and be payable from the date of filing of the writ petition. The monetary benefits be computed and paid to the petitioner within the next three months thereof.

4. If the petitioner is still aggrieved in any manner arising from the same cause of action as in this petition and which has not been addressed, it will be open to the petitioner to make an application in this petition for seeking appropriate orders as may be felt necessary and such a

request, if made, will be decided on merits.

(RAJIV NARAIN RAINA)
JUDGE

20.10.2015
manju