

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

Civil Writ Petition No.6918 of 2013

Date of decision: 17.12.2015

Ms.Saveen

... Petitioner

Versus

Director General School Education, Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.C.L.Verma, Advocate,
for the petitioner.
Mr.Gagandep Singh, Advocate,
for respondent No.1.
Mr.Vaibhav Sharma, DAG, Punjab.
Mr.Namit Kumar, Advocate,
for respondent No.3.

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 applied for the position in Computer Faculty advertised by the Punjab Information, Communication and Technology Education Society for filling posts on contract basis. She cleared the test and was selected for appointment. The sole dispute in this case is whether the petitioner was served with the offer of appointment or not on which dispute her fate hinges for joining the post. In case, the offer of employment was misdirected at an incorrect address, then this Court is of opinion that her rights will subsist even though the period fixed for reporting joining under the appointment letter has expired. Though the matter initially

appeared to be one of disputed questions of fact which normally would not

be entertained in the writ jurisdiction but the Indian Postal Department was impleaded as a party to the petition by Court orders to elicit the truth about the delivery of the letter of appointment by registered post. A short reply has been filed on behalf of respondent No.3 through Senior Superintendent of Post Offices, Jalandhar Division, Jalandhar represented by Mr.Namit Kumar Advocate at the hearing today. The short reply duly verified on August 20, 2013 reads as follows : -

“That the registered letter No.RP190841168IN was received in the office of Respondent No.3 on 22.11.2012 through Jalandhar RMS?1 entered at S.No.2/22 in Registered List. The above-said registered letter was given for delivery to the Postman on 22.11.2012 by entering in Delivery Slip. Since the address was incomplete, therefore, the Postman tried his level best for delivering the same and also given remarks while depositing the said registered Letter on 22.11.2012, 23.11.2012 and 24.11.2012 “Deposit for try” and finally on 26.11.2012, he made the remarks on the Delivery Slip “Incomplete address-return to sender” and then the registered article was returned to sender on 27.11.2012 due to incomplete address.”

2. Having read the short reply and heard the learned counsel at length I have no reason not to accept the version of the Indian Postal Department and the remarks recorded by the local postman who went to deliver the letter and found that the address was incomplete and the letter was returned to the sender. When trust and faith can be placed on the averments in the short reply, the question of there being seriously disputed questions of fact has receded into background. Very valuable rights accrue on selection and/or appointment to service even though the position may be

contractual in nature. After all, the petitioner made the grade in the selection process and was offered appointment on being successful but the letter got waylaid.

3. On due consideration of the matter, I feel that the petitioner has been wronged by a mistake committed in the office of the employer for the reasons best known to the organization. I would, therefore, accept the plea of the petitioner that she has a case for seeking a direction in the nature of mandamus to the respondents to offer her appointment again and to consider the case within six weeks from the date of receipt of a certified copy of this order.

4. Learned counsel points out that this Court vide interim order dated April 8, 2013 had kept one post of Computer Faculty reserved for the petitioner till further orders. This makes relief eminently possible without disturbing any third party rights. This post can easily be given to the petitioner for the reasons stated above.

5. Accordingly, this petition is allowed and the impugned order dated February 1, 2013 [P-7] rejecting the claim of the petitioner is quashed. On appointment, the petitioner will take her notional benefits from the date when the person lower in merit than her was appointed as Computer Faculty. The monetary benefits will accrue in full from the date when a post was kept reserved, that is, from April 8, 2013.

(RAJIV NARAIN RAINA)
JUDGE

December 17, 2015

Paritosh Kumar