

COCF No.436 of 2015 (O&M)

Date of Decision: November 03, 2016

Chander Shekher and another

.....Petitioners

Versus

T.C. Gupta and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Inder Pal Goyat, Advocate
for the petitioners.

Mr. Ashish Yadav, Addl. A.G., Haryana.

Mr. D.R. Sharma, Advocate
for respondent No.2.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court alleging violation of the order dated 05.03.2012, passed by the Division Bench of this Court in Letters Patent Appeal No.1174 of 2009 (*Sanjay Kumar and others Vs. State of Haryana and others*). Review application which was preferred by the State of Haryana i.e. Review Application No.60 of 2015, along with an application for condonation of delay has been dismissed by the Division bench of this Court on 02.09.2016.

Counsel for the petitioners states that in the light of the dismissal of the review application, the respondents are bound to grant the benefit of appointment to the petitioners in the light of the observations of the Division Bench vide order dated 05.03.2012. He asserts that as per the medical examination of petitioner No.1-Chander Shekhar conducted, in

pursuance to the Division Bench Judgment of this Court, he has been found to be 30% visually handicapped and 60% hearing impairment which is not permanent and is likely to improve. Qua petitioner No.2, the medical report indicates that he is suffering from 75% visual handicap. In the light of these findings of the Medical Board, the petitioners are entitled to the benefit of the order passed by the Division Bench. He contends that in any case one time departure had to be made by the respondents for considering the petitioners for the post of JBT Teachers, which benefits have not be granted to them.

This assertion of the counsel for the petitioners has been disputed by the counsel for the respondents, who qua petitioner No.1 states that he would not be entitled to the benefit of the provision of “The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995” as the impairment is not permanent and is likely to improve. Qua petitioner No.2, he submits that one time exemption was taken note of and an advertisement was issued on 10.04.2012, wherein 1.5% posts were reserved for the category of blindness and low vision as well as the Locomotor disability. The petitioners having not availed of the said benefit, cannot now claim that the order passed by the Division Bench has not been complied with. Reference has also been made to the order dated 25.03.2016 (Annexure R-1) passed by the Director Elementary Education Haryana, Panchkula rejecting the claim of the petitioners. He, thus, prays that no contempt as such is made out qua the respondents as the orders passed by the Division Bench of this Court have been duly complied with.

On considering the submissions made by counsel for the parties, this Court accepts the contention of the counsel for the respondents and is of the considered view that the orders passed by the Division Bench of this Court have been duly complied with. Petitioners, if aggrieved, by the action of the respondents may avail of their remedy in accordance with law against the order dated 25.03.2016, (Annexure R-1) passed by the Director Elementary Education Haryana, Panchkula.

Disposed of with the above observations.

Rule issued to the respondents stands discharged.

(AUGUSTINE GEORGE MASIH)
JUDGE

November 03, 2016

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No