

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15240 of 2011
Decided on : 11.02.2016

Harinder Pal Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present : Mr.G.S.Nahel, Advocate, for the petitioner.

Mr.Pankaj Mulwani, DAG, Punjab.

Mr.Shekhar Verma, Advocate, for respondent No.2.

G.S. Sandhawalia , J. (Oral)

Petitioner seeks quashing of the order dated 03.05.2011 (Annexure P10) whereby his claim for appointment on the post of Maths Master (Male) on contractual basis with the respondent No.2-Authority was rejected on the ground that the appointment letter had been sent to him but he had not reported to the concerned District Education Office or the concerned school. Accordingly, a finding was recorded that the selection list was no longer valid and the claim of the petitioner was not maintainable and hence rejected.

The pleaded case of the petitioner is that the respondents had invited applications from eligible candidates for appointment vide advertisement issued in the year 2008 for 135 posts, on a consolidated salary of Rs.13,500/- per month. It is not disputed that in pursuance of the said advertisement, the petitioner was found within the zone of consideration and was successful in the counselling held on 01.07.2009 and appointment letter was

issued to him on 20.08.2009 (Annexure R2/1).

It is the case of the respondents that the letter was sent through registered post and the petitioner's case is that he never received it. Petitioner has placed on record material facts to show that he had applied through a RTI application dated 29.09.2009 (Anexure P6), regarding his merit. He was also informed on 03.12.2010 (Annexure P7) that the posts had been increased to 725 and that his appointment letter had been sent vide memo dated 28.08.2009 and he had been asked to report at the Government Middle School, Pamour Block, Bassi-I, District Fatehgarh Sahib, but since he had not joined, the appointment was treated as cancelled.

He immediately represented on 15.12.2010 (Annexure P8) that the appointment letter be issued to him and he be asked to join against the available 725 posts, advertised in August, 2008 and the appointment letter had not been delivered to him and that he was unemployed. Thereafter, he approached this Court in CWP-3448-2011, and a direction was issued on 25.02.2011 (Annexure P9) by this Court to the respondent-Authority, to consider his case. Resultantly, the impugned order has been passed, rejecting the case of the petitioner.

The justification of the respondents is that the appointment was purely contractual and valid upto 31.03.2010 and therefore, the petitioner had failed to join and another candidate

had been allowed to join. The letter had been dispatched at the correct address through registered post and there was no scope to let him join. The diary dispatch register is also appended as Annexure R2/2 with the additional affidavit.

Thereafter, the respondents, vide order dated 22.09.2015, were directed to file an affidavit as to whether there was any vacant post available against which the petitioner could be adjusted and whether any candidate had been regularized and the details regarding the number of candidates appointed against the advertisement.

Vide affidavit dated 20.10.2015, it has been averred that 407 appointment letters had been issued to the eligible General Category candidates. Fresh advertisement were also issued on 12.01.2010 and 20.11.2010 and as per the notification dated 23.08.2010, issued by the National Council for Teacher Education, it was mandatory to pass the Teachers Eligibility Test and the appointments were on contract basis, extended on year to year basis and therefore, no regularization had been done. Plea was taken that whether the letter was delivered or not is a matter of fact and the petitioner has not approached the concerned Civil Court.

Keeping in view the above facts, this Court is of the opinion that the petitioner has been agitating for his grievances, within one month from the issuance of the appointment letter and

seeking information as to what was his fate. Respondents, though have communicated to him, on the one hand that he had not joined but on the other hand, while passing the speaking order, have rejected his case on the ground that he was not interested, in spite of the fact that he was aggrieved by the fact that he had not received the appointment letter. Thus, it is clear that he has been running from pillar to post for his legitimate rights. It is not disputed that the post is a contractual one and thereafter also, advertisements have been issued for the posts of Maths Masters and Mistresses and the respondent-authorities are in need of such candidates. It is also not disputed that the petitioner has cleared the Teachers Eligibility Test and it is not that he is not entitled or ineligible for the said post.

In such circumstances, this Court is of the opinion that the petitioner is entitled for re-consideration for appointment and issuance of the letter of appointment, afresh. However, it is made clear that the petitioner will only be entitled for the contractual emoluments, as per the fresh letter of appointment and not for any arrears, since, admittedly, the respondents are not responsible for any delay or negligence on their part, as the letter was sent through registered post.

With the above-said directions, the present writ petition stands allowed.

FEBRUARY 11, 2016

sailesh

**(G.S. SANDHAWALIA)
JUDGE**