

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14603 of 2013
Decided on : 21.04.2016

Balwant Kaur

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present : Mr.R.K.Arora, Advocate, for the petitioner.

Mr.Avinit Avasthi, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

Petitioner seeks quashing of the order dated 26.04.2013 (Annexure P12) whereby a direction was issued by respondent No.2, to cancel her appointment. Challenge has also been raised to the order dated 03.06.2013 (Annexure P14) whereby the said order was implemented by respondent No.4 and the appointment of the petitioner as Guest Faculty Instructor in the field of Cutting & Tailoring, was cancelled.

Counsel for the petitioner has submitted that petitioner was at Sr.No.2 in the merit list, which had been prepared on 16.04.2010 (Annexure P5) and on the strength of the same, appointment letter (Annexure P6) had been issued, on the same date. On a complaint made by one of the candidates, who was also a contender for the said post, the matter was referred to the Vigilance Department and eventually, a report had been sought,

which was favourable to the petitioner, however, in spite of that, her appointment had been set aside.

State, in its reply, has taken the plea that the petitioner's services could be terminated without giving any notice. Reference is also made to the affidavit given by the petitioner wherein it has been mentioned that her post is purely temporary and she was appointed as a Guest Faculty Member.

It is not disputed that as per clause 4 of the vernacular of the appointment letter, it has been mentioned that if the work and conduct are found to be unsatisfactory, then the services were liable to be dispensed with, without further notice.

It is further the case of the State that on the basis of the complaint received, it was found that the petitioner did not have the experience of 2 years, as per the requisition sent to the Employment Exchange, Khanna, which was overlooked by the Selection Committee.

The State has, further, submitted that Annexure P5 is not the merit list and has placed on record the merit list (Annexure R6) wherein, in the remarks column, it has specifically been mentioned that the petitioner had only 1 year 1 month's experience, which is not as per the requirement of the relevant rules. Counsel for the State has further pointed out that Clause (viii) of Appendix 'B' of the Punjab Industrial Training (Class III) Technical Service Rules, 2001, would go on to show that practical

experience of 2 years is required. Relevant clause reads as under:

“Viii

(iii) Should possess atleast two years, practical experience in an organization registered under the Factories Act, 1948 or atleast two years teaching experience in the line in a Government Institution or an Institution recognized by the Government.”

The original record has been produced by the State Counsel, to show that requisition was sent on 24.07.2009, in which experience for the said post was fixed as 2 years, which is in consonance with the rules. It is not the case of the petitioner that she has the experience of 2 years. In such circumstances, once it has been found that the petitioner did not have the requisite experience and she had been wrongly selected, on the basis of the illegality committed by the Selection Committee, no fault or irregularity, on the face of it, can be found in the action of the respondents, cancelling her temporary appointment. Accordingly, the petitioner is not found entitled for any discretionary relief under Article 226 of the Constitution of India.

Resultantly, finding no merit in the present writ petition, the same is, hereby, dismissed.

APRIL 21, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE