

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

CWP No. 15189 of 2016

DATE OF DECISION : 19.10.2016

Administration U.T. Chandigarh and others

.... PETITIONERS

Versus

The Registrar, Central Administrative Tribunal, Chandigarh and another

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. I.P.S. Doabia, Advocate,
for the petitioners.

* * *

RAMENDRA JAIN, J.

1. The petitioner department invited applications by issuing a public notice for the posts of Hostel Superintendent in the pay scale of ₹ 5800-9200. The essential qualification for the post was M.A 2nd Division with at least 50% marks and three years experience as Hostel Superintendent in any college. Preference had to be given to the candidates having completed Dietician course and possessing degree in Home Science. Since sufficient number of applicants with the above essential qualifications were not available, therefore, the posts were re-advertised on 01.11.1999, with some relaxation in essential qualifications, which were laid in the earlier advertisement. This time, the essential qualification was MA/M.Sc/ M.Com with 50% marks from recognized University. The candidates with Dietician/Nursing course were to be given preference, besides past

experience in the field of running the hostel in the educational institutions of College level. Consequently, 51 applicants were called for interview after duly intimating them regarding the date of interview. Pursuant thereto, 22 candidates appeared for interview on 05.02.2000, and four candidates, namely Mrs. Asha Sharma; Mrs. Narinder Kaur Nagi; Ms. Sunita; and Mrs. Jatinder Kaur Narang, were selected. However, one Dr. Jaspal Kaur, who was not called for interview held on 20.07.2000, challenged the said selection by filing OA No. 622/CH/2000, which was disposed of on 01.01.2001, and while setting aside the selection of three candidates, the petitioners herein were directed to hold the selection afresh in accordance with law within a period of three months from the date of receipt of a copy of the order. The said order was affirmed by this court vide order dated 15.02.2001 passed in CWP No. 2168 of 2001.

2. In compliance with the said order dated 01.01.2001, as affirmed by this court, fresh interviews were held on 28.04.2001, and four candidates, including Ms. Manorama Sharma (respondent No.2 herein), were selected against four posts earmarked for candidates of General category.

3. Aggrieved by the said selection, one Mrs. Asha Sharma, who was selected in the initial selection on the basis of interview held on 05.02.2000, and other applicants filed OA No. 418/PB/2001 alleging that they were not intimated to appear in the interview on 28.04.2001, and once they had been selected for the post, their selection could not have been quashed and fresh selection without calling them for interview was not fair.

4. Feeling aggrieved by the order dated 15.02.2001 passed by this

court affirming the aforesaid order dated 01.01.2001 passed in OA No. 622/CH/2000, three candidates who were selected in pursuance of the interview dated 05.02.2000 filed SLP No. 10970 of 2001 before the Apex Court, in which operation of the orders dated 01.01.2001 and 15.02.2001 was stayed. Finally, the said SLP was dismissed by the Apex Court on 02.08.2002. Thereafter, the aforesaid OA No. 418/PB/2001 filed by Mrs. Asha Sharma was allowed on 17.02.2003, quashing the selection for the post of Hostel Superintendent pursuant to the interview held on 28.04.2001, and the Director Public Instructions (College) (petitioner No.2 herein) was directed to take steps for holding the selection afresh and fix a date for interview of all the candidates who had applied for the post in response to the advertisement dated 01.08.1999. It was observed that appointment and continuance in service of all the four persons (including respondent No.2 herein) on the post of Hostel Superintendent shall be subject to the ultimate outcome of fresh interview/selection, meaning thereby that they shall continue to work till the selection is finalised. Respondent No.2 who was initially appointed to the post of Hostel Superintendent on 04.05.2001 and joined the post on 04.07.2001 was again selected and appointed to the said post on the recommendations of the selection committee and in pursuance of the aforesaid order dated 17.02.2003 passed in OA No. 418/PB/2001, she was allowed to continue in service. However, while granting ACP to respondent No.2, her services were not counted from 2001 to 2004. Accordingly, she got served legal notice dated 08.08.2014 upon the petitioners and aggrieved by the letter dated 06.01.2015 of the petitioners intimating respondent No.2 that she was allowed ACP benefit on

completion of 4 years of service as on 21.04.2008, she filed OA No. 060/00587 of 2015, which has been allowed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh, vide order dated 02.03.2016 (Annexure P-3), holding respondent No.2 entitled to her service being counted with effect from 04.07.2001 for all benefits. The petitioners have been directed to issue necessary orders in this regard and to release the consequential benefits to respondent No.2 within two months from the date of a certified copy of the order being served upon the petitioners.

5. Aggrieved by the aforesaid order dated 02.03.2016 (Annexure P-3) passed by the Tribunal, the petitioners have filed this petition under Articles 226/227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari to quash the impugned order.

6. Learned counsel for the petitioners argued that selection of respondent No.2 for the post of Hostel Superintendent in the year 2001 was quashed by the Tribunal vide order dated 17.02.2003 passed in OA No. 418/PB/2001, though allowing her to continue to work on the post till the selection is finalised. Therefore, the service rendered by her from 2001 to 2004 could not be treated as regular service.

7. After giving our thoughtful consideration to the contentions raised by learned counsel for the petitioners, we do not find any merit in the instant petition.

8. It is an admitted case of the petitioners themselves that after going through the process of selection, respondent No.2 was issued appointment letter dated 04.05.2001. Accordingly, she joined as Hostel Superintendent on 04.07.2001. The argument of learned counsel for the

petitioners that since the said selection of respondent No.2 was quashed by the Tribunal vide order dated 17.02.2003 passed in OA No. 418/PB/2001, therefore, the service rendered by her from 2001 to 2004 could not be treated as regular service, is without any substance. The Tribunal, vide order dated 17.02.2003, while setting aside the selection for the post of Hostel Superintendents pursuant to the interview held on 28.04.2001, had specifically ordered that the Director Public Instructions (College) shall himself look into the matter and take steps for holding the selection afresh and fix a date for interview of all the candidates who had applied for the post of Hostel Superintendents in response to the advertisement dated 01.08.1999. It was also observed that the appointment and continuance in service of all the four selected persons (including respondent No.2) on the post of Hostel Superintendent shall be subject to the ultimate outcome of the interview/selection to be held in pursuance of the aforesaid directions, meaning thereby that they shall continue to work till the selection is finalized. In compliance with the aforesaid directions, fresh interviews of all the candidates who had applied for the post in question in response to the advertisement dated 01.08.1999 were held, and respondent No.2 was again successful. Thus, she continued to serve the petitioners from 04.07.2001, without any break. In this view of the matter, vide impugned order, respondent No.2 has rightly been held entitled to her service being counted with effect from 04.07.2001 for all benefits.

9. In view of the above, it is very much apparent that there is no denial to the fact that respondent No.2 continuously served the petitioners for a period of about 15 years with effect from 04.07.2001. She had

successfully gone through the process of selection on two occasions. Now, she has retired on 31.03.2016. As per the calculation sheet of pension of respondent No.2 placed on record by the petitioners on August 22, 2016, in pursuance to the interim order dated August 01, 2016, the financial implication is ₹ 84,320/-, i.e less than ₹ one lac. Still the petitioners are not ready to consider and grant the rightful claim of their employee, and have filed this frivolous petition challenging the well reasoned speaking order dated 02.03.2016 (Annexure P-3) passed by the Tribunal. Learned counsel for the petitioners could not point out any legal flaw in the impugned order. The courts are flooded with such type of litigation, wasting the precious time of the court, which can be utilised for disposal of some effective and genuine litigation. Therefore, in our opinion, the officers of the State functionary who are advising to file such kind of frivolous petitions should be burdened with heavy costs.

10. Consequently, this petition is dismissed with costs, which are assessed at ₹ 50,000/- to be recovered from the officer, who had recommended the filing of the petition. The amount of costs be deposited with the State Legal Services Authority, Union Territory, Chandigarh. The order be also communicated to the concerned Department for compliance.

(RAMENDRA JAIN)
JUDGE

October 19, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No