

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

CWP No. 6818 of 2011 (O&M)

Date of decision : 27.05.2016

Santosh Kumari

....Petitioner

versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Nitin Rathee, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl.A.G. Haryana

1. Whether Reporters of Local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

RITU BAHRI, J.

Petitioner has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari for quashing order dated 30.09.2010/03.12.2010 (P-9) and order dated 21.04.2012 (P-10) passed by Financial Commissioner and Principal Secy to Government of Haryana School Education Department, Chandigarh and direct the respondents to appoint the petitioner as Lecturer in Hindi against one of the vacancies of Lecturers in Hindi.

In pursuance to advertisement dated 29.07.1991 for the post of Lecturers in various subject, petitioner applied against the post of Lecturer in Hindi. Out of 34 posts of Lecturer in Hindi, 6 posts were kept reserved for female candidates in General Category. She was allotted Roll No. 13141 and was directed to appear before the Selection Committee on 18.08.1991 in the

office of Sub Division Education Hisar for interview. However, she was not selected. The selection was challenged before this Court and was subsequently quashed on 07.07.1992. The matter went up to the Hon'ble Supreme Court. Vide order/judgment dated 08.10.1992 (P-2), Hon'ble the Supreme Court gave a direction that merit list of the candidates shall be prepared as a result of interview category wise and criteria for viva-voice shall be same as adopted in the earlier selection and existing vacancies in the cadres of JBT Teachers, Masters, Lecturers for senior secondary schools, C&V teachers ad Social Study Teachers shall be filled up by the State Government within one month of the preparation of the merit list. The merit list shall remain alive and operative for a period of one year after the date of its preparation and all the vacancies which may become available during the said period of one year, shall be filled up only out of the said merit list (P-2).

In compliance of the above said order, respondent No. 2 published notice in the newspaper advised all those candidates who were not selected and appointed to appear for the interview in the office of DEO, in pursuance of the advertisement dated 29.07.1991 (P-3). Petitioner appeared before the Selection Committee and merit list was finalized in March, 1993 but merit list was not displayed or published in accordance with the directions of Hon'ble the Supreme Court.

Thereafter, on 22.04.1994 respondent No. 3 advertised 302 posts of Lecturers (School Cadre) for various subjects out of which 13 posts (8 for male and 5 for female) were in Hindi subject P-6). Petitioner filed CWP No. 11586 of 1994 for quashing the above said advertisement and for direction to give appointment to her, as per directions given by Hon'ble the Supreme Court mentioned above.

Respondents filed detailed written statement and taken a stand that as per judgment of Hon'ble the Supreme Court, merit list of candidates was prepared subject-wise as well as category wise on 24.02.1993 and out of the merit list, appointments were made strictly in order of merit and number of the petitioner stood below 150 whereas candidates up to merit No. 14 of general category were offered appointment (P-7). The petitioner filed its replication and stated that no merit list was displayed on the notice board or in the newspaper by the respondents and it was also mentioned that during the year 1993-94, 46 schools were upgraded and similar number of posts were created in different discipline.

This Court disposed of the writ petition on 20.04.2010 (P-8) by giving a direction to the respondents that claim of the petitioner be considered within four months. In case, any of the petitioner is found entitled for appointment, he may be appointed within a period of one month and if any petitioner is not entitled to such appointment, his case may be rejected by passing a speaking order.

However, respondents vide order dated 30.09.2010/03.12.2010 took a stand that the petitioner never appeared before the Selection Committee for the post of Lecturer though in the written statement in para 6, they have stated that the name of the petitioner falls below 150 (P-9).

Petitioner again approached this Court by filing CWP No. 6818 of 2011 challenging order dated 30.09.2010/03.12.2010 passed by respondent No. 1. During the pendency of the writ petition, respondents placed on record copy of order dated 21.04.2012 (P-10) before this Court whereby it was clarified that the petitioner was not absent and she appeared before the selection committee and number of the petitioner stood below 150

whereas candidates up to merit No. 14 of general category were offered appointment.

On notice, a written statement has been filed by the respondents on 28.01.2015 wherein it has been stated that some selected candidates were given appointment in the third week of March, 1993, out of which 28 candidates belong to general category to which the petitioner belongs. It has further been clarified that only 8 candidates were given appointment in General Male category including Bhagwati Parshad, merit No. 28 as last male category candidate at Sr. No. 8 as per order dated 04.02.1994. In Hindi (General Female Category), Smt. Sunita, Merit No. 13 at Sr. No. 13 was also offered appointment in the aforesaid order dated 04.02.1994. The merit position of the petitioner in female category was beyond 150. It has further been stated that order dated 21.04.2012 substituted speaking orders dated 30.09.2010/03.12.2010 and in the remarks column where it is mentioned 'Absent' is just to show the part of the earlier speaking order dated 30.09.2010/03.12.2010 passed earlier by the department. The petitioner was inadvertently shown absent. This mistake was rectified by passing order dated 21.04.2012.

Thereafter, this Court vide order dated 27.03.2015 requisitioned the entire record of the selection process. In compliance of the above order, affidavit dated 09.03.2016 of Vandana Gupta, Deputy Director (PGT-1), office of Director Secondary Education Haryana was filed. In the affidavit, it has been stated that after the Supreme Court gave judgment dated 08.10.1992, the department issued notice on 06.11.1992 to all the candidates, who were not selected/appointed. The candidates were advised to appeared before the different Selection Committee in different DEO. The

petitioner appeared before the Selection Committee on 20.11.1992 and the consolidated merit list (R-I) was prepared by the Directorate for different subjects including Hindi on 24.02.1993 and appointment to the selected candidates was given on 04.02.1994. Thereafter, in compliance of order dated 19.11.1996 (R-II) passed by this Court in CWP No. 6248 of 1994 along with another similar writ petitioners, the said merit list was also published in the Dainik Tribune on 01.07.1997 (R-III). The last appointed candidate in this category scored 51.5 marks, even in the waiting list, the last selected candidate scored 51 marks whereas petitioner was awarded 43 marks (R-IV). Further it has been stated that 05 vacancies which were advertised on 22.04.1994, was subsequently withdrawn by HSSC on 08.02.1999 (R-V). Thus, the claim of the petitioner was duly considered and was rejected. Further it has been stated that after the order of the Hon'ble Supreme Court of India dated 08.10.1992 in a Female General Category, total 14 vacancies came up within a period of one year i.e within 24.02.1993 to 23.02.1994 and the last appointed candidate at Sr. No. 14 Smt. Kalawati scored 51.5 marks whereas the petitioner scored 43 marks. The detailed merit list was not available being old record and the responsible for the lapse has been fixed and Mann Singh, Clerk, office of Director Secondary Education Haryana, Panchkula has also been charge sheeted under Rule 8 of Haryana Civil Services (Punishment and Appeal) Rules, 1987 (R-VI).

After going through the contents of the affidavit dated 09.03.2016, it has been abundantly clarified by the respondents that 14 vacancies came up within a period of one year i.e within 24.02.1993 to 23.02.1994 and the last appointed candidate at Sr. No. 14 Smt. Kalawati scored 51.5 marks whereas the petitioner scored 43 marks and thus she could

not be appointed and appointment letters were issued to the successful candidates on 04.02.1994.

In view of the detailed affidavit filed on 09.03.2016 by Ms. Vandana Gupta, Deputy Director (PGT-1), the present writ petition is dismissed.

(RITU BAHRI)
JUDGE

27.05.2016
G Arora