

**Sr. No. 114
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.19820 of 2016 (O&M)
Date of Decision: 23.09.2016**

Parvinder Kaur

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Ramesh Hooda, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner assails an order dated 11.01.2015 (Annexure P-9) issued by the Director Elementary Education, Haryana, Panchkula whereby her claim to be reinstated as Hindi Teacher (Guest Faculty) has been declined.

Brief facts that would require notice are that the petitioner was initially engaged as a Guest Faculty Teacher on 30.07.2004. Her services were dispensed with on account of a regularly selected candidate having joined on 24.05.2007. On the very next day i.e. 25.05.2007, petitioner was again adjusted as Hindi Guest Teacher in a Government Senior Secondary School, District Panchkula. On 09.01.2009, services of the petitioner were dispensed with ostensibly on the ground that she did not possess the qualifications prescribed for the post of Hindi Teacher.

Petitioner at that stage filed CWP No.6292 of 2009 impugning the order of her being relieved from service and vide order dated 27.04.2009, the same was dismissed. Petitioner thereafter even preferred

CWP No.9846 of 2014 before this Court asserting a right that she is entitled to be reinstated/adjusted in service as per various policy decisions taken by the Government of Haryana. Even such claim was negated and the writ petition was dismissed on 21.05.2014. Such order of dismissal was even affirmed by the Letters Patent Bench vide order dated 14.08.2014 in LPA No.1302 of 2014 preferred by the petitioner.

The instant petition is yet another attempt by the petitioner to seek reinstatement.

Mr. Ramesh Hooda, learned counsel appearing for the petitioner would concede that at the time of her initial engagement on the post of Hindi Teacher, petitioner did not possess the requisite qualifications prescribed for the post under the relevant statutory provisions i.e. the Haryana State Education School Cadre (Group 'C') Service Rules 1998 but would contend that thereafter the requisite qualifications have been acquired. Counsel would place heavy reliance upon the observations made by the Letters Patent Bench in an order dated 24.05.2016 while disposing of ***LPA No.777 of 2015 (Ritu and others Vs. State of Haryana and another)*** at Annexure P-10 and which as per him was filed by certain teachers who were similarly situated. Argument raised is that the tag of being not qualified at the initial stage of entry into service as a Guest Faculty Teacher would not survive even qua the present petitioner and in the light of the fact that the appellants in LPA No.777 of 2015 i.e. Ritu and others have since been re-engaged, the petitioner would also be vested with the right for grant of similar benefit. It is vehemently contended that such aspect has been completely overlooked by the Director General Elementary Education, Haryana while passing the impugned order dated 11.01.2015 at

Annexure P-9.

Having heard counsel for the petitioner at length this Court is of the considered view that the writ petition is bereft of merit.

The action of the respondent Department of having relieved the petitioner from the Guest Faculty (Hindi Teacher) on the ground of not possessing the requisite qualifications has already been upheld by this Court and the writ petition filed by the petitioner already stands dismissed. Even the Letters Patent Appeal preferred by the petitioner was declined. In LPA No.777 of 2015 on which reliance was placed upon, the following observations were made by the Division Bench:

5. *“True that on the analogy of the cited decisions in Sunil Kumar and others case, the appellants cannot seek continuation in service as a matter of right, however, their plea that subsequently they have acquired additional qualification and now fulfill the eligibility condition of subject combination, also merits consideration.*

In this view of the matter, the tag of they being disqualified can no longer be attached. It is thus directed that as and when the respondent-authorities would make appointments whether regular or on contract basis, the eligibility of the appellant(s) shall be considered in the light of the additional qualification(s) said to have been acquired by them.”

A plain reading of the order reproduced hereinabove would make it apparent that the present petitioner even on the ground of parity can at best assert a right for consideration and for appointment as a qualified candidate only in the eventuality of the respondent authorities seeking to make appointments on a regular or a contract basis. It is not the case made out on behalf of the petitioner that in spite of being qualified and possessing

the requisite qualifications under the statutory Rules, the respondent authorities are resorting to fill up the post either on a regular basis or on contractual basis and yet are denying consideration of appointment to the petitioner. The only ground asserted is that the appellants in LPA No.777 of 2015 i.e. Ritu and others have since been re-engaged as Guest Faculty Teachers. Even if that be so, there would be no right that would come to vest in the petitioner to seek reinstatement particularly in the light of the fact that action of the respondent authorities in having relieved her from the Guest Faculty already stands affirmed and upheld by this Court. At best, it may be a case where the respondent authorities have misread and misconstrued the order dated 24.05.2016 passed in LPA No. 777 of 2015 and have granted some relief to the appellants therein.

The observations made by the Division Bench in the order dated 24.05.2016 while disposing of LPA No.777 of 2015 cannot enure to the benefit of the petitioner to claim re-engagement as Guest Faculty Teacher. It is only in a situation where the respondent authorities would resort to making appointments on a regular basis or on contractual basis that the rights of all eligible candidates would be considered and which may also include the present petitioner.

On the face of it, this Court does not find any infirmity in the impugned order dated 11.01.2015 at Annexure P-9. Writ petition is, accordingly, dismissed.

23.09.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No