

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

CWP No.14767 of 2011 (O&M)

Date of Decision: 24.03.2017

Goldy Saini

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. P.S. Khurana, Advocate
for the petitioner.

Mr. L.S. Virk, AAG Punjab.

JAISHREE THAKUR, J. (Oral)

The instant writ petition has been filed with the following
prayers:-

“(b) holding that the action of the respondent authorities in not issuing appointment letter to the petitioner for the post of Lecturer in Chemistry in Ex-servicemen Dependent Category despite being higher in merit is arbitrary, illegal and unsustainable in law.

(c) directing the respondents to issue appointment to the petitioner for the post of Lecturer in Chemistry under Ex-servicemen Dependent Category in view of her merit position forthwith with all consequential benefits.

(d) directing the respondents to keep one post of Lecturer in Chemistry in the category of Ex-servicemen Dependent reserved for the petitioner during the pendency of writ petition, to meet the ends of justice.”

In brief, the facts are that the petitioner applied, pursuant to an advertisement dated 23.09.2009, for the post of Lecturer in Chemistry and Science Mistress in two categories namely Ex-servicemen Dependent Category and Backward Ex-servicemen Dependent Category. Being successful, the petitioner was given appointment in the category of Backward Ex-servicemen Dependent Category, with percentage of marks as 56.03%, however, said appointment was not accepted by the petitioner and she represented to the department that her appointment letter should be issued in the Ex-servicemen Dependent Category. However, as her matter was not considered nor was the same declined, the petitioner approached this court by way of instant writ petition, seeking a direction that appointment should be offered to her in the Ex-servicemen Dependent Category. During the course of proceedings in this writ petition, an additional affidavit came to be filed on 25.03.2014, in which, it has been submitted that an appointment letter dated 21.03.2014 has been issued to the petitioner as Lecturer Chemistry in the Ex-servicemen Dependent Category (Annexure R/1).

Mr. P.S. Khurana, Advocate, learned counsel appearing on behalf of the petitioner submits that the said appointment letter should be treated as an appointment offered in the year 2011, since the petitioner was successful and the initial appointment letter was issued on 24.04.2011.

However, this court is not inclined to agree with the submission made and grant relief thereunder. Admittedly, the petitioner had been offered appointment as far as back in 2011 in the Backward Ex-servicemen Category, but for the reasons best known, the petitioner did not opt to join

services at that point of time, however preferred to agitate that her appointment should be in Ex-servicemen Dependent Category. The petitioner ought to have accepted the appointment offered to her under protest with the right to approach the Department for any other relief. Therefore, the right to claim appointment in the year 2011 is not maintainable.

Mr. P.S. Khurana, Advocate, learned counsel appearing on behalf of the petitioner urges that the services of the petitioner should be confirmed, as she has completed the period of probation of two years as well as the extended period of one year thereafter.

In view of the fact that petitioner, who joined services during the pendency of the writ petition and has completed the period of probation of two years and extended period of one year on 24.03.2017 i.e. today when this order is being passed, it is left open to the petitioner to approach the Department for the relief of confirmation of her services. In case, the petitioner approaches the Department for confirmation, in terms of the appointment orders, the Department is hereby directed to consider the claim of the petitioner, in accordance with law, within a period of three months thereafter.

The petition stands disposed of in the said terms.

March 24, 2017

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No