

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.19145 of 2014 (O&M)
Date of Decision: 26.07.2017

Geeta Rani

--Petitioner

Versus

State of Punjab and another

--Respondents

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

Present:- Mr. Kapil Kakkar, Advocate for the petitioner.

Mr. Avinit Avasthi, A.A.G., Punjab.

Mr. H.S. Jalal, Advocate for respondent no.2.

TEJINDER SINGH DHINDSA.J

The Director General School Education, Punjab/respondent no.2 issued advertisement dated 28.3.2008 inviting applications for recruitment of 1500 (approximately) Computer Teachers on contractual basis. Petitioner applied in response to the advertisement and was subjected to a process of selection. On 24.12.2008 petitioner was issued an appointment order and in pursuance thereto she joined as Computer Teacher (contractual basis) on 28.2.2009. Services of the petitioner have been regularized vide order dated 3.5.2012 but w.e.f. 1.4.2012.

The instant writ petition has been filed seeking issuance of a Writ of Mandamus seeking benefit of ante dated regularization i.e. w.e.f. 28.8.2011 instead of 1.4.2012.

Counsel for the parties have been heard at length.

The entire case set up on behalf of the petitioner is on the strength of memo dated 2.12.2010 issued by the Special Secretary, School Education and on the subject of regularization of services of the Computer

Teachers, who were appointed on contractual basis in the Punjab Information Communication & Technology Education Societies constituted under the Education Department.

Clause B of the policy would be relevant for the issue at hand and reads in the following terms:-

“B. Only those Computer Teachers will be regularized who have completed 2 ½ years service till 1.7.2011 and their work and performance is found satisfactory. Apart from that, there should not be any departmental disciplinary proceedings pending against them.”

It is not in dispute that the petitioner had joined as Computer Teacher on 28.2.2009 in pursuance to a regular selection process. Petitioner completed the 2 ½ years service on 28.8.2011.

There is also no rebuttal to the assertion made on behalf of the petitioner that her work and performance was satisfactory.

Pleadings on record would also clarify that as on the relevant date i.e. when the petitioner completed 2 ½ years of service on 28.8.2011 there were no departmental disciplinary proceedings pending against her.

It has been brought to the notice of the Court that a show cause notice was issued to the petitioner on 9.11.2011 and which, thereafter, had been filed on 6.12.2012.

The issuance of such show cause notice would not be of any relevance in so far as the claim raised in the instant petition.

Under the policy issued vide memo dated 2.12.2010 (Annexure P-3) the embargo as regards the benefit of regularization being granted was only, if, on the relevant date any departmental disciplinary proceedings were pending. It may be reiterated that in the case in hand the relevant date is

28.8.2011 i.e. when the petitioner completed 2 ½ years service on contractual basis and on such date there were no departmental disciplinary proceedings initiated/pending against her.

In the considered view of this Court claim of the petitioner seeking benefit of regularization w.e.f. 28.8.2011 would be squarely covered in terms of the policy issued vide memo dated 2.12.2010.

The only justification being offered by the respondent authorities as regards grant of benefit of regularization to the petitioner w.e.f. 1.4.2012 is that the cases of regularization were considered in batches at four months interval. It is contended that only on account of the case of the petitioner having been considered in a subsequent batch, orders dated 3.5.2012 were issued granting to the petitioner the benefit of regularization w.e.f. 1.4.2012.

The stand taken on behalf of the State cannot be construed as a valid basis for denying to the petitioner her vested right of being considered for regularization under the relevant policy i.e. memo dated 2.12.2010 (Annexure P-3). Right of the petitioner under memo dated 2.12.2010 (Annexure P-3) had crystalized on 28.8.2011 itself. Merely on account of certain administrative exigency/difficulty, if, the case of the petitioner was taken up in a subsequent batch, the same cannot defeat the right of the petitioner to claim regularization w.e.f. 28.8.2011 i.e. the date she had completed 2 ½ years satisfactory service as a Computer Teacher.

It would also be apposite to take note of the specific averment made in the petition that one Amit Gogna was granted the benefit of regularization on the date of completion of 2 ½ years service on contractual basis i.e. w.e.f. 15.8.2011. Such benefit was conferred in pursuance to the

policy dated 2.12.2010 (Annexure P-3). Such assertion made by the petitioner has not been disputed by the respondent authorities in the written statement. The action of the respondent authorities in denying to the petitioner the benefit of regularization w.e.f. 28.8.2011 as such is held to be discriminatory and violative of Articles 14 and 16 of the Constitution of India.

For the reasons recorded above, the writ petition is allowed. Directions are issued to the respondent authorities/respondent no.2 to issue orders forthwith treating the petitioner to be regularized w.e.f. 28.8.2011. Petitioner would also be entitled to all consequential benefits emanating from the date of regularization to be reckoned w.e.f. 28.8.2011.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

26.07.2017

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No