

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of decision : 10.11.2017

1.

CWP-19372-2017

Narender Dahiya

... Petitioner

Versus

State of Haryana and others

... Respondents

2.

CWP-24676-2017

Khushhali

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sajjan Singh, Advocate
for the petitioner.

Mr. R.K.S. Brar, Addl.A.G. Haryana.

Mr. D.D.Tuteja, Advocate
for respondents no.3 & 4 in CWP-19372-2017 &
for respondents no.3 to 7 in CWP-24676-2017.

AMOL RATTAN SINGH, J.(ORAL)

The petitioners in these petitions have challenged the advertisement issued on 11.07.2017 (Annexure P-4) by the 3rd and 4th respondents herein, i.e. the Administrator of the Jat Education Society and the Principal of the All India Jat Heroes' Memorial College, Rohtak, inviting applications for appointment as Assistant Professors in English on a

contract basis, under a self financing scheme.

After notice was issued in CWP no.19372 of 2017, counsel for the respondent-College had produced in Court the record pertaining to the selection in question, also submitting that respondents no.5 to 7 (in both petitions), already stood appointed to the posts in question. Therefore, this Court noticed, in the order dated 20.09.2017, that one set of contractual employees had been replaced by another.

The criteria also having been changed, as was contended on behalf of the petitioner, notice re: stay was also issued vide the same order, after which, upon the record having been summoned by this Court, of selection process from 2012 onwards, vide an order dated 27.10.2017, learned counsel for respondents no.3 & 4 had made offer to the petitioner in CWP no.19372 of 2017, that he would be appointed as an Assistant Professor on contract basis within 3 days, on the same terms as offer to respondents no.5 to 7, on a salary of Rs.25,000/- per month.

What this Court obviously missed out in its previous orders, is the fact that the dispute in question is at the first instance to be considered by the Educational Tribunal / Courts notified by the State Government vide its notifications dated 07.05.2013 and 03.08.2008, as directed by a Division Bench of this Court in Civil Revision No.4315 of 2012 (Management of S.D. Model Senior Secondary School & another vs. District Judge-cum-Service Tribunal and another), as the order of appointment of respondents no.5 to 7 is obviously an order passed by the Management and it being a service matter, it would be appealable to the Educational Tribunal / notified Court.

Therefore, this Court having expressed its opinion today that

the matter would first need to be agitated by the petitioners before the aforesaid forum, learned counsel for the petitioner draws attention of this Court to the order dated 27.10.2017, by which learned counsel for respondents no.3 & 4 had made an offer to the petitioner for appointment as an Assistant Professor within 3 days on contract basis; on the same terms as offered to respondents no.5 to 7.

Learned counsel for the petitioner also again relies upon a judgment of a co-ordinate Bench in CWP no.9300 of 2015, to submit that the petitioner was also entitled to salary for the vacation period.

Consequently, without making any further comment on the issue of the petitioner being entitled to the salary or not for the vacation period, which would be looked at by the Tribunal / notified Court as per the aforesaid notifications of the State Government, CWP no.19372 of 2017 is disposed of with a direction that respondents no.3 & 4 would be bound by the offer as recorded on 27.10.2017, with the petitioner at liberty to approach the Tribunal /notified Courts for redressal of his grievance on all other aspects.

As regards the petitioner in CWP no.24676 of 2017, pursuant to the notice issued, Mr.D.K.Tuteja, Advocate, has appeared for respondents no. 3 to 7 and has filed his memo of appearance.

That petition is disposed of with the petitioner at liberty to approach the Tribunal/ notified Court for redressal of her grievance, no offer of appointment having been made by respondents no.3 & 4 to her so far, but with one of respondents no.4 to 7 having been appointed to the post held by the petitioner, (as contended).

Thus, in the opinion of this Court, the orders appointing the

said respondents, being orders passed by the Management, they would orders appealable by the petitioner, (it being a service dispute), in terms of the directions issued by the Division Bench in its judgment passed in CR no.4315 of 2012.

Both petitions disposed of.

(AMOL RATTAN SINGH)
JUDGE

November 10, 2017.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No