

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

CWP No.26701 of 2015 (O&M)

Date of Decision:16.11.2017

Ravinder Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present:- Mr. R.K.Arora, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

The Punjab State Education Department advertised a total of 9998 of ETT Teachers (Teaching Fellows) in the year 2007 across different districts of the State. 945 posts were earmarked for District Gurdaspur. The posts were to be filled up in the ratio of 50:50 between female and male candidates.

The present petitioner applied for the post in question under the General (Female Category). Petitioner was issued appointment letter dated 26.09.2011 (Annexure P-4) as also a posting order dated 29.09.2011 at Annexure P-5. Petitioner subsequently joined service w.e.f. 29.09.2011. Having completed her probation period, her services were confirmed w.e.f. 23.01.2014 vide order dated 27.01.2014 (Annexure P-8).

The instant petition has been filed assailing a show cause notice dated 18.11.2015 (Annexure P-9) issued by the District Education Officer (Elementary Education), Gurdaspur contemplating the action of cancelling of the appointment letter itself.

Perusal of the show cause notice would reveal the basis for

issuance of the same i.e. the merit of the petitioner having been determined to be 59.993 and the merit of the last selected candidate in General (Female) Category in District Gurdaspur being 65.020.

In the writ petition various contentions have been raised against the proposed action of the cancellation of the appointment letter including disputing the merit position reflected in the show cause notice.

At the stage of preliminary hearing, while issuing notice of motion, this Court had issued interim directions to the effect that no final order in pursuance to the show cause notice dated 18.11.2015 (Annexure P-9) shall be passed. Consequently, the petitioner continues to serve on the post in question.

In the considered view of this Court, there would be no necessity of entering into the merits of the controversy.

Petitioner has preferred a writ petition impugning a show cause notice. It is only a contemplated action which is reflected in the show cause notice. It would be appropriate for the petitioner to respond to the show cause notice dated 18.11.2015 (Annexure P-9). Likewise, it would also be obligatory for the respondent Department/competent authority to consider all the contentions and submissions that may be raised in response to the show cause notice and to thereafter take a final decision as regards the contemplated action of cancellation of appointment letter that had been issued to the petitioner in the year 2011.

In view of the above, the instant writ petition is disposed of in terms of granting liberty to the petitioner to submit a comprehensive response to the show cause notice dated 18.11.2015 (Annexure P-9) within a period of two weeks from today.

In the eventuality of any such response being filed, the respondent State/competent authority would consider all the contentions and grounds raised therein and thereafter pass a final order containing detailed reasons within a period of 08 weeks.

An opportunity of personal hearing to the petitioner prior to taking a final decision would be appreciated.

It is, however, clarified that this Court has not examined the case on merits.

Keeping in view the factual premise that the petitioner has served on the post continuously since the year 2011, it is directed that in the eventuality of the final order being detrimental to the petitioner, such order be not given effect to for a period of two weeks from the date of passing of the same.

Petition disposed of.

16.11.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No