

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

CWP No. 5806 of 2013
Date of decision: 06.12.2017

Sudesh Kumari

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. R.K. Malik, Sr. Advocate,
with Mr. Bhupinder Malik, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

G.S.SANDHAWALIA, J.

Challenge in the present writ petition is to the order dated 11.03.2013 (Annexure P-5) vide which, the petitioner who was working as a Guest Lecturer, Hindi was directed to be relieved by respondent no. 2 by withdrawing the letter dated 28.01.2013 (Annexure P-3). It is to be noticed that vide Annexure P-3, after re-conducting the enquiry, it had been directed that the petitioner be re-appointed in Government Senior Secondary School, Sonapat.

It is, thus, not disputed that in pursuance of enquiry dated 15.01.2012 (Annexure P-2) by the Deputy Director, a recommendation had been made in favour of the petitioner that she had been adjusted by the then District Education Officer and further that she had the necessary qualification prescribed for the post of Lecturer. The role of her husband Anil Kumar, Clerk regarding adjusting the petitioner was held to be not substantiated. In spite of the said report, she had been relieved without

grant of opportunity and without issuance of any show cause notice.

It is the pleaded case of the petitioner that she was appointed as Lecturer in Hindi on 21.07.2007 onwards and being duly qualified and worked for various periods till 2013. Her services had been terminated on 08.10.2012 on the ground that she was not having the essential qualification. She had filed CWP No. 21448 of 2012 which had been withdrawn on 27.11.2012 on the ground that she could avail alternative remedy of filing a civil suit. It is the case of the petitioner that she made a request to the Director that an inquiry be held and resultantly, the Deputy Director namely Sh. Zile Singh had enquired and given his report dated 15.01.2013 (Annexure P-2) and resultantly, she had been re-appointed on 28.01.2013 (Annexure P-3). Vide the impugned order, the earlier order had been withdrawn which can be held to be non-speaking and not justified in the facts and circumstances.

In spite of the higher authorities having come to the conclusion that the petitioner's appointment was justified and that the witnesses had changed their statements and the report had come in favour of the petitioner, she has been relieved by respondent no. 2. The report reads thus:-

“From the above facts and statements, I reached to the conclusion that the recommendations made by District Education Officer, Sonapat are not based on facts. There is no role of Sh. Anil Kumar, the then Clerk, The then DDO Sh. Satbir Singh and present Principal, Govt. Senior Secondary School, Gasauli, Sonapat has changed their statements which are not correct and being a Gazetted Officer they have shown irresponsible behaviour. As regard the question of adjustment of the above Lecturer, she was adjusted by

the then District Education Officer and she fulfills the qualifications prescribed for the post of Lecturer.

The report is submitted for further action.”

The District Education Officer namely Suman Lata persisted with the earlier stand and has taken the plea that the husband of the petitioner had taken undue advantage and engaged his wife and he had been charge sheeted on 20.02.2013. Reliance was placed upon a preliminary enquiry dated 20.09.2012 (Annexure R-4) regarding the said allegations. It has been pleaded that the petitioner had not filed the civil suit as per the order of the Court and it is admitted that in view of the report of the Deputy Director, she had been re-appointed. The District Education Officer had sent a letter to the concerned Principal not to allow the petitioner to join till clarification was received from the Directorate and, therefore, reappointment was withdrawn.

Counsel for the respondent-State also argued on the same lines.

In the opinion of this Court, once the matter had been re-enquired at a higher level by the Deputy Director himself and a report had come, it was not for the District Education Officer to question the same and get the order of appointment not effected and cancelled, as has been done. It is not for her to question and take the stand that the civil suit had not been filed. Once a proper enquiry has been made by the Deputy Director (Annexure P-2) whereby, the statements of various witnesses including the earlier Principals and the Drawing and Disbursing Officer had been recorded and a finding had been recorded that the husband was not involved in the adjustment of the petitioner as he was only a Clerk and it was a District Education Officer Sh. Dilbagh Singh who had adjusted the teacher.

The plea taken is against the enquiry proceedings which had been accepted

and in pursuance of that, she had been allowed to join duties on 28.01.2013 in Government Senior Secondary School, Khanpur Kalan. The stand of the State is, thus, totally unjustified and accordingly does not warrant any consideration.

Accordingly, the writ petition is liable to be allowed with costs which are imposed to the tune of Rs.10,000/- upon Smt. Suman Lata, District Education Officer who had filed the reply and has vehemently opposed the reappointment of the petitioner on solely untenable grounds. Accordingly, directions are issued to respondent no. 2 to adjust the petitioner as a guest faculty on the same terms and conditions as earlier within a period of four weeks from the date of receipt of certified copy of the order. Preference be given to her appointment in Government Senior Secondary School, Khanpur Kalan as it has been informed by the counsel for the petitioner as per communication dated 05.12.2017 that there are two sanctioned posts available in the said school.

06.12.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No