

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

Civil Writ Petition No.3954 of 2015 (O&M)
Date of Decision: April 6, 2017

Kiran Bala

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

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

Mr. Pankaj Mulwani, DAG Punjab
For the respondent-State.

Mr. Anupam Singla, Advocate
For respondent No.2.

JAISHREE THAKUR, J.

The petitioner herein seeks a writ in the nature of Mandamus directing the respondents to regularize the services w.e.f. 01.07.2011 or 26.11.2011 instead of 31.05.2012, with all consequential reliefs as per her entitlement.

2. In brief, the facts are that the petitioner herein applied pursuant to an advertisement issued for appointment on contract basis to the post of Computer Teacher on monthly salary of Rs.7000/-. Being successful in the test that was held, the petitioner was appointed as a Computer Teacher by

order dated 24.12.2008. Thereafter, the Punjab Government vide policy dated 02.12.2010, decided to regularize the services of all Computer Teachers w.e.f. 01.07.2011, who were appointed on contract basis and had completed 2 ½ years of service till 01.07.2011. After regularization, their services would be governed by the Rules framed under the Punjab Civil Services. The services of the petitioner were regularized w.e.f. 01.04.2012 whereas, it is claimed that her services should be regularized earlier. Aggrieved, the instant writ petition has been filed.

3. Mr. Kapil Kakkar, learned counsel appearing on behalf of the petitioner contends that though the appointment letter was issued on 12.12.2008, the petitioner was not allowed to join services on the ground that her certificate, from where she had completed M.Sc. (IT), was to be verified. She was allowed to join services on 26.05.2009 and therefore, on completion of 2 ½ years of services, she should have been regularized w.e.f. 26.11.2011, but the same has not been done. It is argued that action of the respondents is unjust and unfair and against the law, as laid down by this court in the matter of ***“K.G. Nanchahal Vs. State of Punjab”***, 2002(1) RSJ 773, wherein, it has been held that once the State Government has issued the instructions/guidelines, the State is duty bound to adhere to such instructions/guidelines.

4. Per contra Mr. Pankaj Mulwani, learned counsel appearing on behalf of the respondent-State submits that the petitioner is not entitled to regularization w.e.f. 26.11.2011, as claimed in the writ petition, on account of the fact that she had not completed 2 ½ years of service on that date. She

had availed 05 days 'without pay leave' from 25.03.2011 till 29.03.2011 and therefore, she would have completed 2 ½ years on 02.12.2011. As per instructions dated 05.07.2011, in order to regularize services of those computer faculty, who had completed 2 ½ years of services, their cases are to be received in the Head Office to verify their eligibility. Those persons, who are become eligible for promotion in the month of April-July 2011, their cases are examined in the month of August, 2011. Similarly, who become eligible in the month of August-November 2011, their cases are examined in the month of December, 2011 and similarly, those who become eligible in the month of December 2011-March 2012, their cases are examined in the month of April, 2012 and therefore, the services of the petitioner were rightly regularized w.e.f. 01.04.2012.

5. I have heard learned counsel for the parties and have also perused the record of the case.

6. The only point that arises for consideration is, "*whether the services of the petitioner have been rightly regularized w.e.f. 01.04.2012 or would she be entitled to regularization from the date she completed her 2 ½ years in service*"

7. The respondent-State, by memo No.1/49/2009-2E/9141-9184 dated 02.12.2010 (Annexure P-3), decided to regularize the services of Computer Teachers, who were appointed on contract basis in the PICTES Societies constituted under Education Department w.e.f. 01.07.2011. As per one of the condition mentioned therein, only those Computer Teachers will be regularized, who have completed 2 ½ years of service on 01.07.2011, if

their work and performance is found satisfactory, with the further stipulation that these teachers would not be given any benefit of service rendered by them on contract basis, prior to the regularization. In continuation of the Government memo dated 02.12.2010, another memo No.1/49/09-2E7/2494-2536 dated 05.07.2011 (Annexure P-5) was issued, which stipulated that;

“(A). Only those computer teachers will be regularized who have completed 2 ½ years of service on dated 01.07.2011 and their work and performance is satisfactory. Besides this no Departmental Disciplinary action is pending against them. On dated 01.08.2011 and after that, as per the conditions contained in the above cited letter, after every 4 months, those computer teachers who completes 2 ½ years of services, their services will also be regularized.”

In terms of the said revised condition, as mentioned in the memo dated 05.07.2011, the persons who have completed 2 ½ years of services, were to be regularized after every 04 months. The condition is to be read in two stages. Firstly, a candidate must have completed 2 ½ years in service as on 1.7.2011 and does not have any disciplinary proceedings pending against him/her, Secondly, on completion of the period specified, ***after every four months***, the services would be regularized. The said condition does not stipulate that the regularization would be automatic from the date when the candidate completed 2 ½ years as a Computer Teacher. Therefore, once a candidate had completed 2 ½ years of services, their cases are put after every four months, meaning thereby that the cases are considered ever quarter by the authorities concerned for orders to be issued.

8. In the instant case the petitioner completed 2/1/2 years of service on 2.11.2011 on account of having availed of 5 days without pay leave. Her case was thereafter sent for regularization and within the period of four months, the necessary orders were issued. Therefore, this court finds no infirmity in the date of the regularization, as determined by the official respondents, to warrant inference by this court.

9. The petition stands dismissed being devoid of any merit.

April 6, 2017

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No