

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

224(02 cases)

Date of Decision : 21.03.2017

1.

CWP No.6715 of 2015 (O&M)

Ghanshyam and another

..... Petitioners

versus

State of Haryana and another

..... Respondents

2.

CWP No.8736 of 2015 (O&M)

Sukesh Kumar and others

..... Petitioners

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr.Vivek Sharma, Advocate for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

AJAY TEWARI, J. (Oral)

This order shall dispose of the aforesaid two writ petitions as the issues involved therein are same.

By way of these two writ petitions, the petitioners who were all Clerks are seeking appointments by transfer to the posts of Master/Lecturers by relying on some instructions of the erstwhile State of Punjab of 1965 where this was permitted.

It may be mentioned that this issue came up before this Court in CWP No.24400 of 2011, *Ghanshyam and another vs State of Haryana and others*, decided on 25.01.2013 and this Court held that these

instructions would loose their efficacy after the promulgation of the Haryana State School Education Lecturer School Cadre (Group C) Service Rules, 1998. That matter was carried in LPA and by which time the Haryana School Education (Group C) State Cadre Service Rules, 2012 came to be in operation. The Division Bench noticed as follows :-

“ The learned Single Judge has held that since recruitment to the subject post is now governed under the Haryana State School Lecturer (Group C) Service Rules, 1998, the executive instructions relied upon by the appellant are inconsequential and are inapplicable. Learned Single Judge has further found that the Instructions dated 8.7.1965 relied upon by the appellant have since been withdrawn by the State Government vide memo dated 16.11.2011.

xx

xx

xx

Having heard learned counsel for the parties, it appears that the view taken by the learned Single Judge that once the method of recruitment is governed by the statutory rules, the Instructions have no applicability, is a correct statement of law and calls for no interference. If the department, however, has been invoking powers under Rule 9(1)(ii) and has made appointments by way of transfer of the officials already in service of the State Government, we grant liberty to the appellant to make a representation alongwith such instances and submit his claim. The representation/claim of the appellant may be considered keeping in view the fact that the Instructions dated 8.7.1965 were still in force when he is said to have become eligible and applied. A speaking order on the representation of the appellant shall be passed by the Competent Authority within a period of six months from the date of its receipt.”

In the present petitions, the petitioners have relied upon the appointment given to one Bharat Singh. It may be mentioned that the case of those persons was forwarded for appointment in the year 1977 and, thus, it was done before the promulgation of 1998 Rules. Consequently, there is no parity of the case of the petitioners with the case of Bharat Singh. Moreover, it can also not be lost sight of the fact that the Division Bench has upheld the decision of the learned Single Judge in law but has only

CWP No.6715 of 2015 (O&M)

given liberty to those appellants to file a representation to the Government on the ground of discrimination. That observation would in any case not create any right. Admittedly, the petitioners have no teaching experience as required by the Rules. In the circumstances, I see no reason to grant any relief. Consequently, both the writ petitions are dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

21.03.2017
anuradha

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No