

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH
CWP No.9664 of 2017
Date of Decision: August 11, 2017

Suman Lata

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. S.K. Bhardwaj, Advocate, for the petitioner.

Mr. R.K. Doon, AAG, Haryana.

Amol Rattan Singh, J. (Oral)

By this petition, the petitioner is seeking a writ of mandamus that she be given an appointment to the post of a Hindi Teacher in the respondent-Department of School Education, Haryana, as an order had been passed by respondent no.2 on 19.04.2002, a copy of which has been annexed as Annexure P-3 with the petition, admitting her claim, subject to the outcome of three writ petitions, details of which have been given in the said order, i.e. CWP no.716 of 2001, Ram Chander and others v. State of Haryana, CWP no.1272 of 2001, Surinder Singh v. State and CWP no.3210 of 2001, Sumitra Yadav and another v. State of Haryana, which at that stage (on 19.04.2002) were shown to be pending before this Court (as per the said order of respondent no.2).

Upon this petition having been filed this year, i.e. 2017, this Court had directed vide its order dated 18.07.2017, that the case files of the aforesaid three writ petitions be also put up along with the case file of the present petition. Thereafter, having noticed in the order dated 18.07.2017

itself that as per the computer, CWP no.1272 of 2001 was shown to have been disposed of on 19.09.2003, but thereafter the aforesaid writ petition also having been shown to have been disposed of on 14.11.2013, learned counsel for the petitioner had submitted (on 24.07.2017), that the final date of disposal of the aforesaid petition would be obviously 14.11.2013. Consequently, a detailed report from the Registry of this Court had been sought, vide the order dated 24.07.2017 (passed in the present petition), with regard to listing of various civil misc. applications with CWP no.15032 of 2000, which were disposed of/dismissed on 14.11.2013 by a coordinate Bench.

This was obviously so because the civil misc. applications were seemingly listed along with CWP no.15032 of 2000 and not with the writ petitions referred to in the order of the Director, Secondary Education, dated 19.04.2002 (endorsed on 22.04.2002), with counsel for the petitioner however pointing out that all the matters were connected.

As recorded in the order dated 02.08.2017, a report had been submitted by the Registry, to the effect that an extremely large number of civil misc. applications were shown to be listed along with CWP no.15032 of 2000, only due to the fact that (as could be understood from the report) the main cases had also been put up for hearing along with the connected CMs on that date, i.e. in the year 2013.

After noticing to the above effect, vide the same order, i.e. dated 02.08.2017, it had been also directed that the case file of CWP no.195 of 2002 (earlier filed by the petitioner) be put up along with the present

petition.

Today, the case file of CWP no.195 of 2002, as also the case files of CWP nos. 716, 1272, and 3210 of 2001, have been all put up along with the present petition.

A perusal of the case file in the petition earlier filed by the petitioner (along with other 6 other petitioners), shows that the said petition, i.e. CWP no.195 of 2002, was disposed of by a Division Bench of this Court on 04.01.2002 as follows:-

“The petitioners claim is that their names were recommended; they were placed in the waiting list and are now entitled for appointment to the posts of Hindi teachers, in view of instructions of the Government dated 7.10.1998.

Keeping in view the peculiar facts and circumstances of the case, we do not consider it necessary to issue notice of this petition at this stage. However, we dispose of this writ petition with a direction to the respondents to deal with the legal notice dated 2.9.2001, served by the petitioners and dispose of the same by passing a speaking order within a period of three months from the date a certified copy of this order is brought to their notice.”

On query, learned counsel submits that it is actually pursuant to the aforesaid order, that the order of the Director Secondary Education (now Director, School Education), Haryana, respondent no.2 herein, Annexure P-3, was passed on 19.04.2002.

On query as to why the petitioner kept silent for 15 years after passing of the aforesaid order, before filing the present petition, seeking to be appointed as a Hindi Teacher on the basis of her having been put on the waiting list pursuant to the selection held in 1998/2000, he submits that since the order Annexure P-3 was a conditional order subject to the outcome

of CWP nos.716, 1272 and 3210 of 2001, the respondents had actually not appointed the petitioner in the meanwhile and those petitions having been disposed of in the year 2013, the petitioner cannot be accused of coming to this Court after an inordinate delay.

The contention is 'wholly' rejected, in view of the fact that firstly, the conditional order was not to the effect that the petitioner would not be appointed till the decision of the aforesaid three writ petitions; but even if it is to be taken that the respondents themselves interpreted the order as such, those three writ petitions were disposed of in the years 2002 and 2003 itself, as can be seen from the case files of those petitions (and not in the year 2013).

Learned counsel then submits that, as a matter of fact, another connected writ petition, in which the petitioner therein was also seeking appointment in similar terms, has been disposed of by this Court only on 19.12.2013, the said writ petition being CWP no.15078 of 2000, (the complete copy of which has been produced in Court by the learned counsel, along with the judgment and order of this Court passed in that petition on 19.12.2013).

The claim of the petitioner on the basis of the order passed in that petition is also rejected, in view of the fact that the said petition was filed in the year 2000 and remained pending in this Court for about 13 years, till it was finally decided on 19.12.2013.

The pendency of that petition cannot therefore grant a lease of life to the petitioner, who remained silent qua her own rights from the year

2002 or at least 2003 (CWPs No.1272 and 3210 of 2001, having been decided by a coordinate Bench on 19.09.2003). Had the petitioner approached this Court within a reasonable time thereafter, she would have possibly been entitled to stake her claim in terms of the order of Respondent no.2, dated 19.04.2002. However, 14 years after cause of action may possibly have arisen to the petitioner, her petition cannot be entertained.

Consequently, this petition is dismissed on the ground of delay and laches alone.

Upon costs proposed to be imposed by this Court, learned counsel for the petitioner submits that the petitioner has not kept anything concealed in the present petition and even a representation has been made by her to the respondents.

Firstly, trying to show that the aforesaid writ petitions as were referred to in the order of respondent no.2, were disposed of in the year 2013, whereas they were disposed of in the years 2002 and 2003, would actually mean misleading the Court and for that costs of at least Rs.25,000/- should be imposed; however, while dismissing this petition, this Court desists from imposing any cost, just taking into account the fact that the petitioner possibly may not be in a sound financial position, she seeking appointment to the post of a Hindi Teacher in a school.

August 11, 2017
vcgarg/dinesh

(Amol Rattan Singh)
Judge

Whether speaking/reasoned: Yes
Whether reportable: Yes