

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

**LPA No.1828 of 2017 (O&M)
Decided on : 26.09.2017**

Ravinder Kaur

... Appellant

Versus

State of Punjab and another

... Respondents

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr. Kapil Kakkar, Advocate,
for the appellant.

MAHESH GROVER, J. (Oral)

The appellant is aggrieved of the judgment of the learned
Single Judge dated 21.8.2017.

The facts in brief would reveal an advertisement given out
by the respondents on 23.9.2009 intending to fill up numerous posts,
the details of which were indicated hereinbelow :

**DETAILS OF THE POSTS, PART-I (TEACHING
CADRE)**

1. Name of the post : Lecturers No. of Posts : 513
(Biology – 40, Chemistry – 40, Commerce – 40,
Economics – 40, English – 40, Geography – 38, History –
40, Home Science – 38, Math – 40, Physical Education –
37, Physics – 40, Political Science – 40, Punjabi – 40

(a) Payable consolidated salary : Rs.6400/-

(b) Basic qualification : M.A. Or M.Sc. Or M.Com
with B.T. Or B.Ed.

2. Name of the post : Master/Mistresses

No. of the posts : 3638

Science Master/Mistresses – 450,

Math Master/Mistress – 1275

Punjabi Master/Mistresses – 1200

Hindi Master/Mistresses – 713

(a) Payable consolidated salary : Rs.5400/-

(b) Details of subjectwise academic and
professional qualifications :

(i) Science Master : B.Sc. degree from any
recognized University having studied any two out of the
following subjects in all the three years and should have
passed B.T./B.Ed.

(Physics, Chemistry, Botany, Zoology)

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3. Name of the post : Vocational
Masters/Mistresses

No of the posts : 2106

Electrical : 78, Civil 78, Mechanical 78,
Electronics : 78, Automobiles : 78, Knitting : 78, Garment
Making : 78, Weaving : 78, Textile Chemistry : 78,
Computer Science : 78, Horticultures : 78, Food

Preservation : 78, Secretarial or Commercial Practices : 78, Banking : 78, Basic Financial Services : 78, Cooperation : 78, Export-Import Practices and Documentation : 78, General Receptionist : 78, Insurance : 78, Marketing salesmanship : 78, Office Management : 78, Purchasing and store keeping : 78, Rural Informatics Management : 78, Rural Marketing : 78, Taxation Practices : 78, Transport Services : 78, Travel and Tourism Technique : 78.

(a) Payable consolidated salary : Rs.5800/-

(b) The subject wise particulars of requisite professional, Technical qualifications.

(iii) VOCATIONAL MASTER-Mechanical

Qualification :

3 years Diploma in concerned stream of Engineering from State Board of Technical Education with 3 years. Practical experience of teaching in reputed organization or on Govt. establishment which should be countersigned by competent officer.

(x) VOCATIONAL MASTER-Computer Science

Qualification :

Three years Diploma in appropriate Branch of Engineering from State Board of Technical Education with three years Practical/Teaching experience from Government/Non government/Reputed Regd. Organization, Countersigned

by competent authority.”

Under the head General Conditions and one which is relevant to the present controversy is clause 3 which we extracted hereinbelow : -

“3. These appointments for all the categories are to be initially made for a period of one year on contract basis and consolidated pay. The offer of appointment can be extended for next year, keeping in view the work and conduct of the candidate. After period of 3 ½ years, on the condition of the work and conduct of the candidate being satisfactory, he will be considered for regular appointment. This recruitment is being made on priority basis to fill up the vacant posts in boarder, bet, kandi and rural areas.”

The appellant applied claimed to be in the merit list but for some reasons, was kept away from the process of appointment while others gained employment in the year 2011.

Aggrieved against the action of the respondents in not appointing her, she preferred writ petition No.13421 of 2011 which was accepted with the following mandate : -

“In view of my above discussions, present writ petitions are allowed. A direction is issued to the respondents to consider the claim of the petitioners for appointment to the post of Math Mistresses within a period of two months from the date of receipt of certified copy of the order and take appropriate steps in accordance with law. It is made

clear that the petitioners shall be entitled to the benefits from the date of their appointment, and they will not be entitled to claim seniority, notional pay fixation etc. from any previous date.”

The appointment still did not materialise compelling the appellant to file a contempt petition before this Court whereafter the appointment letter was issued on 23.7.2015. The contempt petition was disposed of. The appellant then filed another writ petition with grievance that she was unjustly kept away from appointment because of the fault of the State and all those persons who participated in the same process to gain employment, are now working on regular basis while the appellant still continues to discharge her functions on contractual post in terms of her appointment letter.

It is contended that not only this action of the respondents is arbitrary and unfair but also discriminatory as the benefit of regularization has been conferred upon other employees almost identically placed as the appellant in terms of order dated 1.6.2015 and 23.10.2015 appended to the proceedings as Annexure P-5 and P-6.

A perusal of these documents indicate a conferment of the benefit of regularisation upon the incumbents named therein pursuant to some directions of the writ Court which are not before us and neither has any attempt being made to enlighten us in this regard. The plea of discrimination based solely on these two documents, therefore, cannot be answered for lack of material information on record.

In so far as the other plea of the appellant seeking parity

with those employees who gained employment in the year 2011 after the selection process is concluded, we are of the opinion that in view of the limited mandate of the writ Court granting benefits to the appellant with effect from the date of appointment with no further direction to relate her appointment back to those who were appointed in the year 2011, would clearly disentitle the appellant to any such concession particularly when no such clarification was sought before the writ Court which answered CWP No.13421 of 2011 in the first instance.

Learned Single Bench vide impugned order, therefore, did not commit any infirmity when it observed that the claim of the appellant and the directions of the writ Court in CWP No.13421 of 2011 would have to be seen against the backdrop of the advertisement in particular Clause 3 of the General terms and conditions extracted above which would imply that the appellant's case for regularization would fall for consideration after she completes 3½ years of her appointment. There is, thus, no cause made out to interfere in the impugned judgment.

We, however, hasten to clarify that since the orders of the writ court in favour of the appellant materialised in the year 2014 but the appointment was delayed on account of the fault of the respondents the benefit would relate to the period prescribed by the writ Court for compliance, i.e., within two months from the date of passing of the order. In short, the appellant's appointment would relate to the year 2014 and the benefit of Clause 3 as extracted above of the general terms and conditions would flow to the appellant with effect from

2014. We expect expeditious disposal of the matter from the respondents.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

September 26, 2017
Paritosh Kumar

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No