

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA-672-2017 (O&M)

Date of decision: 04.05.2017

Meenu Bhatti

..... Appellant

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Dr. GKS Taank, Advocate for the appellant.

RAMENDRA JAIN, J.

1. The instant Letters Patent Appeal has been filed by the appellant under Clause X of the Letters Patent, against the orders dated 20.01.2015 and 30.11.2015 passed by the learned Single Judge, in CWP-18387-2010.

2. Briefly stated, in pursuance to the advertisement dated 12.06.2006 got published by the Subordinate Services Selection Board, Punjab (for short 'the Board'), inviting applications for appointment of teachers in various subjects including Punjabi Masters (insensitively described as Mistress) in the Punjab State Education Class III (School Cadre) Service, the appellant had applied for the post of Punjabi Teacher/Master and was selected vide order No. 2/80-2006-Estt-2 (4,5,6) dated 07.12.2006. Consequently, she was given appointment as Punjabi Masters (Mistress) on 21.12.2006. In the advertisement, there was a

have Punjabi either as a compulsory or elective subject in graduation course. However, on discovery that the appellant was not having Punjabi as an elective subject, her services were dispensed with w.e.f. 28.12.2006 i.e. barely a week after her joining. Thereafter, the appellant had approached this Court and filed CWP-282-2007 and during the pendency of the same, the respondents took a conscious decision to permit all the candidates who were having Punjabi either as a compulsory or as elective subject during the graduation. Resultantly, in view of the above decision, the appellant was also given an offer to join which she accepted and the writ petition was disposed of as having become infructuous vide order dated 06.02.2008. The appellant after getting her assignment back got all service benefits except monetary consequences relating to pay which she claimed by way of CWP-18387-2010 w.e.f. 21.12.2006 i.e. the date on which she was initially appointed. On 20.01.2015, when the said writ petition was listed for hearing, no one had appeared on behalf of the appellant. However, the learned Single Judge, after going through the records dismissed the same on merits. Consequently, the appellant had filed CM Nos. 15161-63-2015, after a delay of 238 days for recalling the order dated 20.01.2015. The application for condonation of delay of 238 days in filing CM-15163-2015 was allowed. However, the application (CM-15163-2015) for recalling the order dated 20.01.2015 was declined by the learned Single Judge, on the ground that sufficient reasons were given for dismissing the main petition.

3. The learned Single Judge, after considering the claim of the appellant has observed that the appellant did not work during the period from 21.12.2006 till she was re-appointed as she was not entitled to appointment because of deficiency in qualification of Punjabi as an elective

subject in graduation course but, thereafter, decision of the respondents to relax such condition and applying it across the Board was taken of which the appellant was beneficiary. Such a beneficial decision taken by the respondents entitling the appellant to join the service which she might not have otherwise got, cannot justifiably result in acceptance of the prayer of the appellant of the monetary consequences for the period during which she did not work. It has also been observed by the learned Single Judge, that according to learned counsel appearing for the State of Punjab, on instructions from Law Officer of the office of District Education Officer, Jalandhar, the appellant had been paid the salary for the period during which she worked and had also been given the benefits of seniority etc.

4. Learned counsel for the appellant contended that the appellant was fully qualified for appointment as Punjabi Teacher/Master as per the advertisement dated 12.06.2006 and there was no fault of her for misconduct which had resulted into her discharge or removal from the service. Since no show-cause notice as per the rules of natural justice was given to the appellant before discharging her service vide order 28.12.2006, therefore, she was entitled to all the consequential benefits including the pay for the period during which even she had not worked.

5. After giving our thoughtful consideration to the submissions made by learned counsel for the appellant, we do not find any merit in the instant appeal, as undisputedly, the appellant had already been given the benefits including the seniority etc. except the pay during the period for which she did not work. In our considered view also and as had already been observed by the learned Single Judge, the appellant is definitely not entitled to the pay for the period during which she did not work on the

principles of “no work no pay”.

6. In view of the discussions made above, we do not find any illegality or perversity in the impugned orders dated 20.01.2015 and 30.11.2015 passed by the learned Single Judge. There is inordinate and un-explained delay of 485 days in filing the instant appeal. Hence, the instant appeal is dismissed on merits as well as on the point of limitation being hopelessly time barred.

7 A copy of this order be forwarded to the respondents to avoid multiplicity of litigation.

**(RAMENDRA JAIN)
JUDGE**

May 04, 2017
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**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No