

202-A

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

**Civil Writ Petition No. 17180 of 2011 (O&M)
Date of Decision: 17.05.2018**

Managing Committee, Sri Guru Gobind Singh Khalsa
College, Mahilpur, District Hoshiapur and another

..... Petitioners

Versus

Ms. Kamla and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Sameer Sachdeva, Advocate
for the petitioners.

Mr. Arjun Sheoran, Advocate
for respondent No. 1/Ms. Kamla.

None for respondent No. 2.

Mr. Ravi Gakhar, Advocate for
Mr. Jagdish Manchanda, Advocate
for the **applicant** in **CM No. 6698 of 2014**.

JASWANT SINGH, J. (ORAL)

Present petition vide order dated 19.11.2015 was ordered to be listed alongwith Civil Writ Petition No. 15400 of 2011, wherein this Court, vide order dated 20.03.2018, has allowed an application (CM No. 1649 of 2018 in CWP No. 15400 of 2011), moved by the counsel for applicant-respondent No. 1, seeking preponement of the date of hearing from 11.09.2018 and was fixed for today, i.e., 17.05.2018. Hence, the counsel for the parties have no objection if the present petition is also to be listed/heard for today.

Accordingly, present petition is taken up today itself.

The Managing Committee of Sri Guru Gobind Singh Khalsa College, Mahilpur, District Hoshiapur, which is an aided College (hereinafter referred to as the 'Employer-College') has filed the present writ petition challenging the order dated 17.08.2011 (**Annexure P-10**), passed by learned Educational Tribunal, Punjab, whereby the termination order dated 02.08.2010 (**Annexure P-4**) passed by the Employer-College, terminating the services of respondent No. 1/Teacher (Ms. Kamla) as Lecturer in Political Science, has been set aside and directions have been issued for her reinstatement with consequential benefits of salary etc.

This Court, while issuing notice of motion, had stayed the operation of the impugned order dated 10.02.2011 (**P-10**) vide order dated 23.08.2011, which reads as under:-

“ **C.W.P. No. 17180 of 2011**

Present: Mr. K.S. Dadwal, Advocate for the petitioners.

Mr. Saurav Khurana, Advocate for the Caveator (Kamla)

Learned counsel for the petitioner submits that under the same and similar circumstances and on the same question of law, in CWP No. 15400 of 2011, notice of motion has been issued for 31.10.2011 and operation of the impugned order has been stayed.

Mr. Saurav Khurana, learned counsel for the caveator submits that pick and choose policy has been adopted by the management and the services of the petitioner have been terminated, whereas other similarly situated lecturers are still working with the petitioner-College and the appointment letter, which was subject to the approval by the DPI and the Vice-Chancellor, was never issued to respondent No. 2 and it was a forged document, as it has been held by the Tribunal also.

Learned counsel for the petitioner submits that action has been proposed to be taken against all the employees,

who are similarly situated and letters as well as reminders have been sent to DPI also and the same is under process. There is no pick and choose policy on the part of the petitioner-College.

Learned counsel for the caveator has not been able to show that appointment letter containing the terms and conditions that the same was subject to the approval of the DPI and was not the Vice-Chancellor, was never conveyed to respondent No. 2.

Notice of motion for 31.10.2011. Interim order in the same terms.

Meanwhile, operation of impugned order dated 2.9.2011 (Annexure P.10) is stayed.

15.09.2011

(Daya Chaudhary)
Judge ”

Learned counsel for the petitioners has argued that the appointment of respondent No. 1 vide letter dated 29.06.2006 **(Annexure P-3)** as Lecturer in Political Science was subject to the approval of the Vice-Chancellor, Punjab University, Chandigarh, and the Director of Public Instructions (Colleges), Punjab and in the event of the Director of Public Instructions (Colleges), Punjab, having not approved her appointment vide letter dated 30.07.2010, respondent No. 1 had no right to continue on the post of Lecturer in History.

On the other hand, counsel for respondent No. 1/Teacher has pointed out that respondent No. 1 was selected by a duly constituted Selection Committee, comprising of a Nominee of the Vice-Chancellor as well as Director of Public Instructions (Colleges), Punjab, held on 25.06.2006, therefore, the reason for non-grant of approval only by the Director of Public Instructions (Colleges), Punjab, simply on the basis that there was a ban imposed by the Government on 14.07.2005, cannot constitute as a valid basis for terminating the services of respondent No. 1.

It is submitted that by efflux of time, the ground of alleged ban loses its significance in the light of no other illegality, and keeping in view the interest of the students, for which the services of respondent No. 1 were engaged.

It is also conveyed that respondent No. 1-Kamla during the period of stay granted by this Court vide order dated 15.09.2011 against the order dated 17.08.2011 (**P-10**) passed by the Tribunal, was employed as Lecturer in Political Science with some other College for the period commencing w.e.f. 20.09.2012 till 30.04.2014 and, thereafter, employed w.e.f. 27.05.2015 till today, therefore, the entitlement for release of arrears would be with effect from the date of passing of termination order dated 02.08.2010 (**P-4**) till 19.09.2012 only.

After scrutinizing the arguments of the counsel for parties and pleadings on record, this Court finds that the present petition is devoid of any merits.

It is not in dispute that a proper advertisement for recruitment of two posts of Lecturers in History was issued by the Employer-College on 11.04.2006 (**Annexure P-2**). It is also not in dispute that the Selection Committee constituted as per the provisions of Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974, comprised of a Nominee of the Vice-Chancellor as well as DPI (Colleges), Punjab, who conducted the selection process on 25.06.2006 and selected two persons to the post of Lecturers in Political Science, in which, Sh. Gurmel Singh Malhi was placed at Sr. No. 1 and Ms. Kamla (respondent No. 1) at Sr. No. 2. Both were appointed against the unaided posts vide appointment letter issued on

29.06.2006 (P-3). It is also not in dispute that the Vice-Chancellor, Punjab University, Chandigarh, has approved the appointment of respondent No. 1 vide letter dated 20.11.2008, however, the DPI (Colleges), Punjab, vide its letter dated 30.07.2010 has conveyed that the appointment of respondent No. 1 cannot be approved, as the same was made inspite of the ban dated 14.07.2005. Learned Educational Tribunal, Punjab, on the basis of documents produced has noticed that there are other eleven (11) lecturers, who were appointed after the appointment of respondent No. 1, inspite of the ban dated 14.07.2005, and have been permitted to continue, whereas it is respondent No. 1, who has been singled out for such discriminatory treatment. In the opinion of this Court, the action of the Director of Public Instructions (Colleges), Punjab, in refusing to grant the permission and the consequent action of termination has been rightly held to be bad in law for the reasons that the alleged ban on recruitment by the Government was itself ignored by the Office of the DPI (Colleges), Punjab, by nominating a person to constitute the Selection Committee for conducting the selection on 25.06.2006, inspite of the ban on 14.07.2005. If any action is required, it was required to be taken against the Office of DPI (Colleges), Punjab, itself. Ms. Kamla (respondent No. 1), who has been properly selected by a duly constituted selection committee and has served the college and in the interest of the students for almost five years before passing the impugned order of termination dated 02.08.2010 (P-4), cannot be prejudiced in any manner by the mindless action of the Office of DPI (Colleges), Punjab. This Court is in full agreement with the reasons adopted by the Tribunal, while proceeding to grant relief to respondent No. 1 including that of

consequential benefits of salary etc.

In view of above, no case for any interference is made out in the present writ petition and the same is liable to be dismissed.

Dismissed.

The petitioners are directed to release the arrears of salary for the period w.e.f. 02.08.2010 till 19.09.2012 within a period of three months from the date of receipt of certified copy of this order, subject to respondent No. 1 filing an undertaking that she was not gainfully employed the periods for which she is claiming arrears of salary. In case the directions are not complied, then respondent No. 1 shall be entitled to grant of interest @ 12% per annum for the said amount w.e.f. 19.09.2012, till the date of payment. That apart the petitioners shall be liable to be hauled up in contempt proceedings. The Managing Committee (petitioners) are at liberty to recover the amount of interest from the official(s) concerned. The petitioners shall also issue experience certificate to Smt. Kamla (respondent No. 1) for the period she has actually worked.

Since the main case has been decided/dismissed, therefore, no orders are required to be passed in the pending miscellaneous application(s), if any, and the same stand(s) disposed of.

May 17, 2018

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**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>