

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

CWP-18585-2011 (O&M)
Date of decision : 03.10.2018

Uma Rani

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Jagjeet Singh, Advocate,
for Mr. R.S. Manhas, Advocate,
for the petitioner.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

JITENDRA CHAUHAN, J.

Prayer in the instant petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of Mandamus, seeking direction to the respondents to appoint the petitioner as Teaching Fellow against the posts lying vacant.

It is the case of the petitioner that the respondents advertised 9998 posts of Teaching Fellows vide advertisement dated 05.09.2007 (Annexure P-8). The petitioner being fully eligible for the post in question, applied for the same under the unreserved category against the posts meant for District Gurdaspur. As per the criteria set out, she secured 64.19 marks, whereas, the last selected candidate in the category secured 64.94 marks. However, after verification, testimonials of 309 candidates in District Gurdaspur were found to be forged and their selection was cancelled. The grouse of the petitioner is that she ought to have been given

appointment against the posts which fell vacant after the process of verification of documents.

On the other hand, learned State counsel refers to Annexure R-1 to contend that the petitioner had secured 59.192 marks as against her claim of securing 64.19 marks in the General Category (Female). The assertion of the petitioner with regard to the merit of the list selected candidate in her category is also factually incorrect. As per the official record, the last candidate selected under general female category was having 65.020 marks (Annexure R-2) whereas the last selected candidate as per combined merit has secured 65.542 marks.

Heard.

On 12.04.2016, this Court observed as under:-

“Affidavit, in compliance of the order dated 02.02.2016, has been filed by Shri Salwinder Singh, District Education Officer (Elementary Education), Gurdaspur. Para 8 of the same reads as under:

“8. That it is further submitted that as per available record the merit of last selected candidate of female general category was 65.020 marks. The department has already cancelled the selection process of remaining posts vide Public Notice dated 29-07-2013 (Copy appended as Annexure R-4) on account of various legal complications. Therefore, the department did not proceed further with this selection process. Hence, no merit of last selected candidate on the basis of Judgment of Neelam Rani's case is available in the department. Moreover, it is not feasible for the department to re-open this selection process at

this stage to calculate the merit of last selected candidate as per the decision of Neelam Rani's case.”

*Perusal of the above affidavit would go on to show that it has been deposed that it would not be feasible to reopen the selection process, at this stage, by calculating the merit of the last selected candidate, as per the decision in **Neelam Rani Vs. State of Punjab & others 2010 (2) RSJ 70**. It is also averred that the department did not proceed further with the selection process. This Court had only directed that an affidavit be filed as to what was the merit of last general candidate as per the judgment in Neelam Rani's case (supra). However, the said information has not been supplied to this Court, as per the defence taken above. The said defence, on the face of it, goes on to show that the said deponent is not willing to come forth with the information asked for.*

Let an additional affidavit be filed, complying with the said order dated 02.02.2016, failing which, the said respondent shall be present in Court, to explain the lapse.

List on 11.05.2016.”

In compliance of the above order, additional affidavit of District Education Officer (EE), Gurdaspur, dated 27.04.2016, was filed.

Para No.3 of the said affidavit reads thus:-

“3. That in compliance of above directions of this Hon'ble Court, the entire available record pertaining to this selection was re-examined. The department prepared tentative combined merit list as per Neelam Rani's case (supra). As per this combined merit list, the merit of the candidate whose name figure at Sr. No.471

i.e. the last selected candidate in general category was 65.542 marks. Whereas, the merit of the petitioner as per prescribed criteria is 59.192 marks. Meaning thereby, the name of the petitioner even did not exist in the combined selection list.”

Thus, the assertion of the petitioner with regard to her merit as well as the merit of the last selected candidate has been found to be against the record. It has further come on record that the department has already cancelled the selection process for the remaining posts vide public notice dated 29.07.2013 (Annexure R-4), owing to various legal complications. Thus, no right has accrued in favour of the petitioner to claim appointment against the post in question.

Dismissed.

03.10.2018

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No