

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10395-2016 (O&M)

Date of decision: 22.10.2018

Shakuntla

...Petitioner

V/s.

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Jasbir Mor, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

RITU BAHRI, J. (Oral).

The petitioner is seeking quashing of order dated 12.04.2016 (Annexure P-6) whereby claim of the petitioner for stepping up of pay at par with her juniors in terms of instructions dated 23.11.2006 (Annexure P-3) and 02.06.2008 (Annexure P-4) and fixation of pay notionally w.e.f. 01.04.2010 as Hindi Teacher has been declined.

A perusal of order dated 12.04.2016 (Annexure P-6) shows that the petitioner w/o Subhash Chander was appointed as Hindi Teacher on 29.03.2011 with regard to the selection of Hindi Teacher which took place in 2010. ***CWP- 4615-2010 titled as Vinod Kumar V/s. State of Haryana and others*** was filed and there was an interim order of stay for appointment of 63 posts. However interim order was modified on 12.01.2011 and thereafter the petitioner was appointed on 29.03.2011 and finally the writ petition was also dismissed on 25.04.2011 (Annexure P-2). The above said facts are not being disputed by the parties.

The grievance of the petitioner is that as per the merit list prepared by Haryana Staff Selection Board, she was at serial No. 165 and on account of stay order passed by this Court in ***CWP-4615-2010***, she could

not be offered appointment in the year 2010 and the persons junior to her, who were appointed before her, are getting higher notional pay and she should be granted notional pay at par with her juniors. She has further referred to the case of **Anju Bala and others V/s. State of Haryana and others CWP-12457-2011** (Annexure P-8) wherein some candidates who had been rejected on the ground that they were ineligible had approached this Court while referring to judgment passed in **Somvir case, CWP-17756-2010**, writ petition was allowed on 02.03.2012 (Annexure P-8) and gave a finding that the petitioners were eligible as per statutory rules. While allowing that writ petition, the petitioners were not entitled to any arrears till the date of joining. However they were entitled to benefit of seniority etc. and their appointment shall relate back when their juniors were appointed.

The respondents in the written statement has not disputed this judgment. Once ineligible candidates have been appointed by granting them benefit as per the merit prepared by the Board, the petitioner cannot be denied the above said benefit only on the ground that there was stay operating in CWP- 4615-2010.

Vide Annexure P-1, the merit No. of petitioner is reflected as 165. The writ petition is being allowed and the respondents are directed to refix the pay of the petitioner notionally at par with her juniors taking into account (Annexure P-9) with all consequential benefits within a period of two months from the date of receipt of certified copy of the order and report be sent to this Court.

22.10.2018**Divyanshi****(RITU BAHRI)
JUDGE****Whether speaking/reasoned
Whether reportable****:
:****Yes/No
Yes/No**