

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

**Civil Writ Petition No. 23866 of 2014 (O&M)
Date of Decision: 07.05.2018**

Manita

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Harish Kumar Verma, Advocate
for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab
for the respondents-State.

JASWANT SINGH, J.

This petition has been brought by Manita, to challenge the order dated 25.06.2013 (**Annexure P-23**), whereby the representation in respect of allotment of station as a teaching fellow has been declined by the Director of Public Instructions (Elementary Education), Punjab (respondent No. 2). Further, a direction is also prayed for allotment of station pursuant to the offer of appointment (conditional) dated 20.02.2009 (**Annexure P-1**) alongwith other consequential benefits.

It is the case of the petitioner (Manita) that she had applied for the post of teaching fellow under Backward Class (BC) Category pursuant to the advertisement dated 05.09.2007 and her merit was determined on the basis of 62.958 marks secured by her and thereafter, the letter of offer of appointment dated 20.02.2009 (**P-1**) was issued to her. The said letter was issued on the recommendations of the Chairman, District Selection Committee (Teaching), Primary, District Gurdaspur. The said letter was

received on 25.02.2009 and as per the terms and conditions as contained in this letter, certain formalities were required to be completed by the petitioner such as: to sign an agreement with the department within stipulated time by submission of an affidavit on the stamp paper of Rs. 300/-, attested by the Executive Magistrate First Class; medical test and to prepare a medical certificate to fitness; to submit the affidavit regarding the undertaking to abide by the Constitution of India, besides various other conditions.

According to the pleadings, it is highlighted that during this period itself her matrimonial alliance was finalized and she got married to Parveen Kumar Sharma on 14.04.2009 and thereafter, she shifted to her matrimonial home at Moga. The marriage certificate is at **Annexure P-8**. It is admitted that after this issuance of offer of appointment dated 20.02.2009 (**P-1**), the candidate was called for allotment of stations through a notice published in the newspaper, but she could not attend the same as she has shifted to Moga and the newspaper had no circulation in that area. Upon noticing this, the petitioner attended the office of respondent on 22.09.2009 and gave the representation seeking allotment of station and thereafter sent reminders.

The petitioner has further narrated the events in her life, after the marriage, particularly highlighting the birth of son, who was hemi paralyzed and she devoted her attention to the treatment and care of her son. She also kept on sending reminders for her claim pursuant to the offer of appointment letter dated 20.02.2009 (**P-1**).

It was in the year 2013, when the petitioner brought a writ

and the same was disposed of with a direction dated 27.02.2013 (**Annexure P-20**) to decide the claim of the petitioner within a given time frame. The liberty was also granted to file a detailed representation and according to her, the same was submitted followed by the reminders. The petitioner also resorted to the contempt proceedings, however, the order by the respondent declining the representation was passed on 25.06.2013 (**P-23**).

Defending the aforesaid order, a detailed reply was filed on behalf of the respondents, wherein it is indicated that the petitioner has failed to fulfill the terms and conditions of the offer of appointment letter dated 20.02.2009 (**P-1**) and the required formalities were never completed. The necessary affidavits were not submitted and the contract agreement was never signed. As she did not fulfill the requirement given at the time given, her claim for teaching fellow stands extinguished and cannot be claimed now. Besides, it is pointed out that the belated claim was raised only in the year 2013, after the regularization of the candidates who were also given the similar letter of appointment with similar conditions.

The arguments of the respective counsel for the parties were heard at length and the record of the case was examined carefully. As far as the offer of appointment letter dated 20.02.2009 (**P-1**) is concerned, the same is admitted and there is no dispute that the petitioner was required to fulfill the terms and conditions. There is nothing to indicate that those formalities were completed by the petitioner and mere placing on record the certificate from stamp vendor regarding purchase of stamp papers alongwith the details is of no value even these certificates are of 17.10.2013, meaning thereby after the decision of the first writ petition bearing CWP No. 4254 of

this stand of the petitioner.

Secondly, the absence of the petitioner in the final round of counselling for allotment of station in the month of June, 2009, pursuant to the public notice is not explained sufficiently. The only reason given is that after her marriage on 14.04.2009, she shifted to Moga, and, therefore, could not acquire knowledge regarding this notice. It is not worth believing that mere shifting of place of residence can be a valid reason for not knowing this important circumstance, particularly when her parental house is still there. At the same time, it can be safely inferred that the petitioner after her marriage in April, 2009 lost her interest in job and, therefore, had chosen to abandon it, because had the petitioner been serious in getting this job, she would not have wasted four long years in approaching the Court only in the year 2013. The further stand of the petitioner regarding the birth of disabled child in the year 2011 is no ground to condone the delay.

Further, an attempt was made by filing a civil miscellaneous application bearing CM No. 858 of 2017, claiming the case to be covered by the judgment passed in CWP No. 21619 of 2013 (**Annexure P-30**), as this Court by allowing the writ petition had set aside the termination of the petitioners therein. The respondents filed the reply to the application. The said case has no relevance as those were the persons who had been appointed and were later on terminated from service for some other reasons. In the present case, the appointment offer was never accepted by the petitioner by her own act and conduct as she never fulfilled the terms and conditions as contained in the letter dated 20.02.2009 (**P-1**).

Lastly, it is also pointed out that a public notice was issued on

candidates who could not attend the counselling before 08.01.2010 for scrutiny of their documents. Again this is a misplaced argument, as held above, the petitioner already stood selected on the basis of merit determined by the respondents, but failed to fulfill the terms and conditions and resultantly cannot be equated with those who failed to attend the counselling for verification of documents. Even otherwise, no vacant post in the category of petitioner is available pursuant to the advertisement dated 05.09.2007.

In view of the above, there is no merit in the present writ petition, therefore, is hereby **dismissed**.

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 07, 2018

'dk kamra'

**(JASWANT SINGH)
JUDGE**

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