

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.21920 of 2018 (O&M)

Date of Decision: 26.10.2018

Dharmender and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Girish Agnihotri, Senior Advocate, with
Vijay Pal, Advocate, for petitioner Nos.1 to 34.

Mr. Vikram Singh, Advocate, for petitioner No.35.

Mr. Harish Rathee, Sr.DAG, Haryana.

RITU BAHRI, J. (ORAL)

CM No.16079-CWP of 2018

Application is allowed as prayed for and Ashok Kumar S/o Bhim Singh is ordered to be impleaded as petitioner No.36. Amended memo of parties is taken on record.

CWP No.21920 of 2018

Petitioners are seeking directions to the respondents to offer letters of appointment to them in terms of the advertisement dated 25.04.2016 (Annexure P-1) as well as all consequential benefits as have been granted to the other successful candidates appointed in pursuant to the said advertisement.

Pursuant the advertisement dated 24.04.2016 (Annexure P-1), 1025 posts of instructors in various trades on contractual have been invited and met list depicting the merit position of the petitioners (Annexure P-2) was issued in their respective categories. However, the selection criteria was

others vs. Union of India and others. This writ petition was dismissed vide judgment dated 28.11.2016 (Annexure P-3). Thereafter, by way of filing CWP No.21132 of 2016, recruitment process was again challenged and after filing the written statement by the State dated 27.01.2017 (Annexure P-5) and dated 12.05.2017 (Annexure P-5), the State has taken the specific stand by highlighting the necessity to fill up the post so as to save the future career of admitted students. The writ petition was dismissed vide judgment dated 17.01.2018 (Annexure P-6). Thereafter, LPA has been filed against the same which was also dismissed vide judgment dated 02.02.2018 (Annexure P-7). Thereafter, petitioner has served a Legal Notice dated 12.02.2018 (Annexure P-8) but when the appointment letters were not issued to the petitioners, therefore, petitioners preferred COCP No.942 of 2018 but the same has been dismissed as it was informed that 33% selected out of the total selected candidates had already been joined. However, liberty was given to the petitioner to avail alternative remedy in accordance with law.

In the present case, after issuing notice of motion on 31.08.2018, written statement has been filed on behalf of respondents No.1 and 2 wherein, the respondents have placed on record letter dated 28.09.2018 (Annexure R-1) whereby, decision has been taken to publish a fresh advertisement. By that time, 316 Instructors had joined on contract basis and it was submitted that no new appointment has been made on contractual basis and after that decision has been taken vide Annexure R-1 to cancel the advertisement qua the remaining candidates who were in the merit. The requisition sent to Haryana Staff Section Commission for 2388 post on 28.09.2018 and 01.10.2018 vide letter 20191 and 20387.

(Annexure R-3) whereby, it has been laid down that validity of waiting list after selection process shall be period of one year from the of recommendations. After a period of one year list to be scrapped and if any further demand is received by Board, it would process the matter afresh and make further recommendations. In the present case, as per advertisement dated 27.04.2016 (Annexure P-1), the Instructors were to be appointed on contract basis @ Rs.14,000/- per month and after dismissal of LPA on, appointment was given to 316 Instructors. Thereafter, as per instructions dated 20.01.1988 (Annexure R-3) fresh requisition has already been sent for recruitment of fresh Instructors on contract basis as the earlier selection list could not be implemented to accommodate the petitioners.

This argument is liable to be rejected on the short ground that when an advertisement (Annexure P-1) was issued the same was challenged initially by CWP No.20191 of 2016 and this writ petition has been dismissed on the ground that since the Department is suffering from a huge shortage of Instructors, a situation adversely affecting the training of students admitted to the institutions and in order to tackle this alarming situation, the Department is left only with the remedy of engaging Instructors on contractual basis, as per Government outsourcing policy dated 06.04.2015 and if the process of recruitment is halted, it would adversely affect the public interest as the training of the students will suffer and it shall further jeopardized the future career of the students enrolled in the ITIs. The stand of the respondent was accepted and writ petition was dismissed on 28.11.2016. Thereafter, another writ petition was filed for challenging the fresh selection process and even that writ petition was dismissed on

every endeavour to conduct and conclude the regular recruitment process within reasonable time and make its recommendations to the Government. After dismissal of the writ petition vide order dated 17.01.2018 (Annexure P-6), it was informed before the LPA Bench that 33% Instructors were appointed out of the selected candidates and the LPA has been dismissed on the ground that observations or even directions issued at the time of passing of the interim orders are totally irrelevant. Thereafter, petitioner filed contempt petition and the information was given to the Court that 33% selected candidates had already been appointed subject to outcome of the writ petition. In the present case, petitioner who participated in the selection process for filling up 1025 posts of Instructors have a right to be appointed at par with the 316 Instructors who had already joined during the pendency of writ petition and LPA. While dismissing the writ petition, this Court has observed that Department was regularly sending requisitions to Haryana Staff Selection Commission to fill up 2388 posts on 28.09.2018 and 01.10.2018 vide letter 20191 and 20387 (Annexure R-2 colly.) on contract basis. Moreover, the Government Instruction dated 20.01.1988 could not be completed in the present case as the main list as well as the waiting list shall remain valid for a period of one year and during the pendency of the writ petitions and LPA, the period of one year has been elapsed.

In view of the above, present writ petition is allowed by giving directions to the respondents to give appointment to the petitioners who has been selected in the merit list pursuant to the advertisement dated 24.04.2016 (Annexure P-1) and it is being clarified with respect of list Annexure P-2 that respondents shall delete the 1025 posts from 2388

Instructors and petitioners will be issued appointment letters within a period of 15 days from the date of receipt of the copy of a certified copy of this order.

(RITU BAHRI)
JUDGE

26.10.2018
anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>