

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

CWP No. 228 of 2018(O&M)

Date of Decision: 11.01.2018

Jitender

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Raje Ram Kaushik, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

Notice of Motion.

On the asking of the Court Ms. Shruti Jain Goyal, AAG
Haryana accepts notice, waives service and written statement.

Heard for final disposal.

The petitioner has no case in this second round of litigation;
first having ended in failure. In the earlier writ petition CWP No. 27049
of 2013 he was granted interim order on 10.12.2013 permitting him to
be interviewed provisionally for the post of Primary Teacher in Haryana
School Education service on the condition that his result shall not be
declared and will be kept in a sealed cover till further orders of this
Court. The case was ultimately dismissed after hearing the respondent
department for the reason that the result of the petitioner was declared
after the closing date. The order has attained finality.

Learned counsel for the petitioner pleads that though his

client has no right of consideration in the main selection process under advertisement No. 02/2012 but his case deserves to be considered from amongst those candidates who are positioned beyond the advertised vacancies. Still the selection process of 2012 is mired in litigation with several issues pending in different cases including LPA No. 686 of 2016 in case titled 'Pardeep Kumar Vs. State of Haryana'.

As a result of this litigation there are candidates who have cleared the selection process successfully but could not be offered appointments because of the various stay orders passed by this Court. Those candidates who had cleared Haryana School Teachers Eligibility Test (HTET) prior to cut off date, their result was declared by Haryana Staff Selection Commission in the year 2014 which may be called list-I. Those candidates who have cleared the HTET examination after the cut off date of receipt of applications in the advertisement i.e. 08.12.2012, challenged the vires of the statutory rules before this Court in the year 2013 wherein HTET has been prescribed as one of the eligibility conditions for appointment as a Primary Teacher i.e. JBT in CWP No. 346 of 2013, titled 'Antim Kumari Vs. State of Haryana and others'. The State Government had filed an affidavit in the said case stating that they had more than 12,000 existing vacancies including the advertised vacancies and they can adjust all the candidates including the candidates who had cleared the HTET Examination after the cut off date.

The Division Bench while upholding the vires of the rules

qua condition of HTET, disposed of the petition in view of the concession of the State Government that all the candidates will be adjusted. However, the selection of those candidates who were fully eligible prior to the cut off date i.e. in September was not under challenge in Antim Kumari's case (Supra).

Once again the selection was challenged on the ground that there was discrepancies in awarding of marks in the selection process with main case being CWP No. 20460 of 2014, 'Naresh Kumar Vs. State of Haryana'. The cases piled up and the bunch of writ petitions was dismissed by orders pronounced on 31.03.2016 and against that judgment Letters Patent Appeal is pending, in which notice of motion was issued on 11.05.2016 and further appointments were stayed. However, on 20.04.2017 the stay order was vacated and State Government was allowed to make appointments. Resultantly, the State Government made appointments from List-I i.e. the one issued in the year 2014 which included those candidates who were fully eligible on the cut off date (date of advertisement No. 02/2012).

Another application was moved in the LPA on 08.05.2017, whereon the stay order was modified to the extent that the State Government could make appointments from the joint merit list i.,e. list-I and list-II (comprising those who cleared HTET before the cut off date of advertisement). Those candidates from List-I who were given appointment pursuant to order dated 20.01.2017, their services were

terminated because their names figured lower in the joint merit list. It is these candidates who are being adjusted on ad-hoc basis as a temporary measure till regular appointments are made and till the final determination of the pending LPA.

Not only this, there are other wait list candidates in list-I, because candidates on this list assert that they were fully eligible on the cut off date and their claims are superior to those in list-II. These candidates have filed a separate writ petition CWP No. 11796 of 2015, 'Meenakshi Malik Vs. State of Haryana' decided on 08.01.2016 claiming appointments on basis of higher merit. In that case the Court has asked for vacancy position from the State Government.

The State Government filed an affidavit giving the details of the vacancies and the writ petition was disposed of in view of the affidavit. However, no concession was given by the State Government and the writ petition was disposed with a direction that the wait list candidates shall be adjusted on the excess vacancies i.e. beyond 8763 advertised. There has been still further litigation to which presently nothing needs to be said in view of the conclusion I think this case deserves of dismissal because the petitioner has no right as claimed by him that his name should be considered in the common merit list on the basis of his marks. Once his candidature was held out of reckoning in his own case nothing can put him back to the status quo ante in view of the above decision.

In short, this petition deserves to be dismissed. I may note that for facts which were not enumerated in this petition, I sought assistance of Ms. Shruti Jain Goyal, learned AAG Haryana who appears for the State of Haryana in my court in the present roster and on my asking as she has been associated as State counsel before various Benches including this Court in multiple litigation involving advertisement No. 02/2012 and has the facts on her tips.

The petition being devoid of merit is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

11.01.2018

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Whether speaking/reasoned : *Yes*
Whether reportable : *No*