

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

CWP-7002-2014

Date of decision-30.08.2018

Chander Kanta

....Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Harsh Aggarwal, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ, in the nature of mandamus directing the respondent(s) to select and appoint the petitioner on the basis of her merit.

It is the case of the petitioner that vide advertisement dated 05.09.2007 (Annexure P-6) applications were invited for filling up of 9998 vacancies of teaching fellows in the Primary Wing of Education Department. The petitioner applied against the 724 posts available in District Moga. As per criteria set out, the petitioner secured 64.25 marks after scrutiny of documents. No call letter was issued for interview, however, only a list was displayed in the office of District Education Officer, Moga. The petitioner could not appear in the interview which took place in the year 2009 i.e. after more than 02 years of the publication of the advertisement. Due to certain litigation, 1133 posts remained unfilled. Therefore, a fresh advertisement dated 16.11.2011 (Annexure P-7) was published for filling up of the

remaining 1133 posts as per merit list of male and female candidates. The date of counselling was fixed as 13.12.2011 and it was specifically provided that the candidates who did not attend the interview earlier, were also eligible. The petitioner attended the interview/counseling on 13.12.2011 at the scheduled place and time but she was not issued the appointment letter. After almost 02 years of persistent efforts, she received an information under the RTI Act vide letter dated 08.11.2013 (issued in the name of her brother) the petitioner came to know that the vacancies had been filled and the last selected candidate was having 61.21 marks, much lower than the petitioner (64.25).

Learned counsel for the petitioner contends that the identically placed candidates were given appointment on the basis of the counselling conducted on 13.12.2011 in pursuance of the judgment passed by this Court in CWP-9197-2014 titled as “**Mamta Thakur Vs. State of Punjab and others**” decided on 09.12.2014.

I have heard learned counsel for the petitioner and have perused the case file.

In Mamta Thakur's case (Supra), this Court laid down as under:-

On due consideration of the matter, I am of the view that the petitioner has been severely prejudiced. It was the fault of the respondents that posting orders were not issued to her in time. Persons similarly situated as the petitioner who faced the similar selection process have been appointed and are continuing to work. It is not the case of the respondents that the entire selection has been scrapped after the decision rendered by this Court in Abhishek Rishi's case. Merely because the posting orders of the petitioner were kept in abeyance for one reason or

the other and delay partially attributed to the respondents and the petitioner would make no difference to the claim of the petitioner to get appointment considering the fact that all others who faced the selection process successfully have been appointed. The plea of the respondents that counselling held on 13.12.2011 and 20.12.2011 were cancelled by way of public notice would also be of no consequence since the petitioner has asserted that number of persons who attended the counselling on these two dates continue to function which fact has not been denied by the respondents. Consequently, instant petition is accepted. Respondents are directed to appoint the petitioner forthwith and assign her place of posting. Let needful be done positively within a period of two months from the date of receipt of the certified copy of this order. Needless to say that the petitioner would be entitled to all consequential benefits other than monetary benefits at par with those who were appointed in the same process.”

The aforesaid view of learned Single Judge which has been affirmed by Hon'ble Division Bench in LPA No.560-2015, titled as “**State of Punjab and others Vs. Mamta Thakur**” decided on 19.05.2015. The case of the petitioner is squarely covered by the judgment rendered in Mamta Thakur's case (supra).

In view of the above, the present petition is allowed in the same terms as in CWP-9197-2014 and respondents are directed to offer appointment letter to the petitioner forthwith.

Allowed.

(JITENDRA CHAUHAN)
JUDGE

30.08.2018

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No