

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 19.04.2018****CWP No.3608 of 2018**

Ishwar Singh & others

...Petitioners

Vs.

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Amardeep Sheoran, Advocate, for
Mr. J.P.Jangu, Advocate, for the petitioners.

RAJIV NARAIN RAINA, J. (ORAL)

The Government of Haryana took a policy decision and accepted the proposal to transfer the Vocational Education Scheme from the Industrial Training & Vocational Education Department to the Secretary, Education Department, Haryana. The Council of Ministers in its meeting held on 19.02.2008 formalized the proposal into policy. As a result, an order was issued on 11.06.2008 transferring the Vocational Education Scheme from the Industrial Training Department to the Secondary Education Department with immediate effect. The administrative control and the assets of 31 Vocational Educational Institutes in Haryana including land, building, machinery etc. was also transferred to the Education Department, Haryana. Thereafter, another order was issued on 24.02.2009 transferring a number of posts, as envisaged in the order, along with the incumbents working on the said posts as per the chart given in the order. The posts on which the petitioners initially joined was as Hindi Instructors in the erstwhile Scheme

sometime in October, 2007, these posts were also included in the chart of staff to be transferred to the Department of School Education, Haryana.

The petitioners made a representation that since they possessed qualifications as prescribed for Lecturers in Education Department, they should be re-designated as Lecturers. They pleaded that they are performing the same duties as Lecturers in the Education Department. Their request was accepted vide order dated 25.10.2007 and they were re-designated from Vocational Instructors to Vocational Lecturers in the Industrial Training and Vocational Education Department. The bifurcation having taken place, the Directorate of School Education, Government of Haryana, passed further orders on 15.04.2009 specifying conditions mentioned in the order dated 24.02.2009. The further conditions of service imposed were to the following effect:

- “(i) the staff so transferred from the Vocational Education Department was to remain on probation for a period of two years;
- (ii) The designation of Lecturers like the petitioners was changed from Lecturer to that of Instructor.”

This position was reversed and the petitioners' designations were changed back to that of Instructors. From 2009 till 2017, the petitioners were satisfied with their lot, when on 04.12.2017 they sent a legal notice to the respondents for redressal of their old grievance. It transpired that a number of Instructors working on contractual basis in the Department of Industrial Training & Vocational Education approached this Court challenging the proposal to terminate their services. They filed CWP No.5289 of 2007 titled 'Ashok Kumar & others Vs. State of Haryana &

others', which was disposed of on 24.01.2008 together with large number of connected cases. The bunch was decided on consensual basis with a direction to the respondents to allow those petitioners to continue in service subject to all terms and conditions which they had accepted by executing agreement dated 08.11.2006. This was subject to their work and conduct being up to the mark. This order was passed in the background of the Vocational Educational Department merging in the Department of Education. They would be replaced only by regular recruits or in case on account of availability of regular staff their services become surplus.

The present petition has been filed seeking writ of certiorari for quashing the circulars/orders dated 24.02.2009 and 15.04.2009 to the extent that the petitioners were treated as fresh entrants and despite the merger of the cadres were not being granted the benefits of the said merger and were being treated as a separate and dying cadre. This they claim restricted their promotional avenues accompanied with the reduced pay and pay scale lesser than being granted to their alleged counter-parts in the School Education Department. They pray for directions to designate them as Vocational Lecturers and treat them as part of School Education Cadre consequent upon merger on 24.02.2009.

When the matter came up for hearing on 16.02.2018, learned counsel for the petitioners prayed for time to consult the judgments in C. Jacob Vs. Director of Geology & Mining of Ministry & another, 2008 (4) SCT 604; State of Uttar Pradesh & others Vs. Arvind Kumar Srivastava & others, (2015) 1 SCC 347 and State of Uttaranchal & another Vs. Shiv

Charan Singh Bhandari & others, (2013) 2 SCC 179 to meet delay and laches in approaching Court belatedly.

Having regard to the statement of law in the judgments of the Supreme Court supra, the learned counsel for the petitioners is unable to skirt around them or extricate his clients. There is no explanation in the petition why such a long delay has occurred. The cause of action accrued to the petitioners, if any, in 2009 and no sufficient cause has been shown for the delay. I would, therefore, refuse to entertain this petition on the ground of delay and laches.

Consequently, the instant petition stands dismissed.

19.04.2018

Vimal

**[RAJIV NARAIN RAINA]
JUDGE**

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>