

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

CWP No.5415 of 2018

Date of Decision:-07.03.2018

Pardeep Singh Guleria.

.....Petitioner.

Versus

State of Punjab & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Rohiteshwar Singh, Advocate for Petitioner.

JASWANT SINGH, J.

Petitioner Pardeep Singh Guleria has filed the instant writ petition seeking a writ in the nature of Mandamus for directing the respondents to appoint as Computer Faculty (on Contract Basis) and further regularize the services of the petitioner retrospectively, along with all service and consequential benefits at par with his juniors, who were granted appointment in the year 2013 and benefit of regularization was given to them in the year 2016.

Learned Counsel for the petitioner has argued that the respondent no.2 had invited applications for filling up of 700 posts of computer faculty on contractual basis, vide advertisement dated 3.12.2011 out of which 49 posts were earmarked for Ex-Servicemen. Although the petitioner applied for the post of computer faculty in the category of Ex-Servicemen, his candidature was wrongly rejected by the respondents on the ground of non submission of Lenient Descendant Certificate of Ex-

Servicemen. Aggrieved against the said action, the petitioner was constrained to file CWP No.15616 of 2013, which was ultimately allowed by this Court vide order dated 23.02.2017, whereby the respondents were directed to consider the case of petitioner for appointment within a period of 3 months from the date of receipt of certified copy of the order. However, despite the order dated 23.02.2017, the respondents did not comply with the order and ultimately a COCP No.1734 of 2017 was filed in which an offer of appointment was made by the respondents on 28.08.2017, which was accepted by the petitioner on 31.08.2017 by joining the department, as per which the petitioner was entitled to get a consolidated salary of Rs.10,000/- for the next three years and upon successful completion of his service of 3 years, he would be regularized. It is however argued that it is apparent from the record that it was on account of omissions on part of the respondents that the petitioner has been offered appointment letter after a gap of nearly six years, which has led to a situation where the persons who were junior in merit at the time of final select list, have stolen a march over him and are drawing a salary of Rs.40,000/- per month, apart from being in regular service. It is thus submitted that the petitioner is also entitled for similar benefits from same date when the persons who were junior to him in the select list have been awarded the benefit.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and deserves to be dismissed.

It is not in dispute that the petitioner was offered an appointment letter dated 28.08.2017, which has been volutarily accepted by the petitioner, by submitting his joining report on 31.08.2017. Meaning

thereby, the petitioner has accepted the terms and conditions of the employment, which were to the effect that he would be entitled for a consolidated salary of Rs.10,000/- for the next three years and after the successful completion of three years of service, he would be regularized. In this view of the matter, petitioner is estopped by his own act and conduct to now seek a writ in the nature of Mandamus for seeking pay parity with those candidates who were employed immediately after the recruitment process was over.

Not only this, the prayer which has been made in the present writ petition ought to have been made in the previous writ petition bearing CWP No.15616 of 2013, wherein the petitioner had challenged the rejection order dated 11.06.2013. However, there is nothing on record to show as to whether he had sought the relief or not. In any case, assuming the petitioner had not sought the said benefits in previous writ petition, then present petition is barred by provisions of Order 2 Rule 2 of CPC, having abandoned his claim. Alternatively, in case petitione had indeed sought the benefits, but were not granted by the Court, then the prayers made in the present petition are barred by provision of Section 11 of CPC as it is deemed to have been declined while allowing the said writ petition. In either situation, petitioner cannot be granted any relief in the present writ petition.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

March 07, 2018
Vinay

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

