

Civil Writ Petition No. 15266 of 2017(O&M)
Date of Decision: October 26, 2018

Rachna Saini

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Vivek Khatri, Advocate
for the petitioner

Mr. Satish Saini, AAG Haryana

Mr. Kanwal Goyal, Advocate
for respondents No. 2 and 3 -HPSC

Mr. R.K. Malik, Sr. Advocate with
Mr. Yogesh Sheoran, Advocate
for respondent No. 4

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Sudhir Mittal, J. (Oral)

RA-CW-171-2018

Vide judgment dated 01.06.2018, the writ petition was dismissed
alongwith bunch of writ petitions.

Thereafter, a review application has been filed on the ground that this
case was different from the bunch of cases inasmuch as the petitioner in the present
case had already been recommended by the Haryana Public Service Commission.
Thus, infact, the writ petition had been rendered infructuous.

Learned counsel for respondents No. 1 to 3 does not dispute the
aforementioned contention made on behalf of the applicant-petitioner.

However, learned senior counsel appearing for respondent No. 4
submits that the writ petition should be decided on merits, although it is correct that
it could not have been dismissed alongwith other bunch of writ petitions.

In view of the above, order dated 01.06.2018 is recalled.

At joint request of the parties, the main case is also taken on Board today.

Civil Writ Petition No. 15266 of 2017

Vide advertisement dated 16.02.2016, the Haryana Public Service Commission (hereinafter referred to as 'the Commission') advertised 1647 temporary posts of Assistant Professor (College cadre). In the subject of Mass Communication, eight vacancies were advertised, out of which one was vacancy for BC-B category. The petitioner applied pursuant to the said advertisement for the post meant for BC-B category candidate. In the final result declared by the Commission, the petitioner was unsuccessful and respondent No. 4 was selected. This result is under challenge in the present writ petition.

It transpires that during the pendency of the present writ petition, the Commission revised the result of the petitioner and declared her successful vide revised result published on 13.10.2017. The Commission also recommended the case of the petitioner for appointment vide recommendation dated 17.10.2017. Meanwhile, respondent No. 4 had been offered appointment on 28.02.2017 and he joined service on 02.03.2017. Since then he has been in service without any interruption.

Under the aforementioned circumstances, it is obvious that the petitioner is higher in merit than respondent No. 4 and deserves to be granted appointment. However, I cannot loose sight of the fact that respondent No. 4 has been in service for more than 1 ½ years and since there is only one vacancy in BC-B category, he would be loosing his job for no fault of his.

Learned senior counsel appearing for respondent No. 4 has drawn my attention to information dated 07.11.2017 supplied to him under the Right to Information Act, 2005 by State Public Information Officer Colleges-I, according to

which, as per the workload, there is a requirement of 37 Assistant Professors in

the subject of Mass Communication, as against the sanctioned strength of 76. This is sought to be buttressed with the averment in para 3 of the short reply filed on behalf of respondent No. 4, wherein it is mentioned that beyond the sanctioned strength of 26, eight Assistant Professors are working on fixed salary. His submission, therefore, is that vacancies are in existence and respondent No. 4 should be accommodated against the existing vacancy rather than terminating his services.

It is apparent that the petitioner is more meritorious candidate and, thus, deserves to be appointed against the vacant post. Accordingly, the writ petition is allowed and it is directed that the Government should consider the recommendation made by the Commission within a period of four weeks from the date of receipt of certified copy of this order and issue an appointment letter to the petitioner in case she is found suitable. However, liberty is granted to respondent No. 4 to agitate his rights in case show cause notice for termination of his services is issued to him.

October 26, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No