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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 07.12.2018
Pronounced on:12.12.2018

+ W.P.(C) 9303/2018 and CM APPL 36913/2018

YOGITA CHAUHAN Petitioner
Through: Ms. Shikha Sapra, Adv.

versus

OFFICE DEPUTY DIRECTORATE OF
EDUCATION NCT OF DELHI Respondents
Through: Ms. Mini Pushkarna, Adv. for
GNCTD

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T

1. Vide the present petition, the petitioner seeks direction thereby directing the respondent for quashing and setting aside the impugned order dated 24.04.2018. Consequently, directing the respondent to issue joining letter to petitioner forthwith.

2. The brief facts of the case are that the respondent advertised a public notice dated 26.05.2017 for “Drawing a Panel for Guest Teachers for Empanelment in Delhi Government Schools for the Academic Year 2017-18.” The respondent took out another public

notice dated 28.09.2017 calling all the selected Guest Teachers for the verification of their documents as per the given schedule. On 16.10.2017, the petitioner got selected and in pursuance thereto, got her documents and credentials verified with respondent. On 28.01.2018, the petitioner gave birth to a child through caesarean process. The respondent vide its another circular dated 30.01.2018 directed the selected candidates to appear at their office between 01.02.2018 to 03.02.2018 for further verification of documents. Despite the fact that the petitioner had a caesarean delivery only few days prior, she appeared on 03.02.2018 before the office of the respondent for final verification of her documents. However, the respondent behaved differently and even harassed her by not marking her attendance. Accordingly, the petitioner wrote a letter to respondent on 03.02.2018 itself requesting the respondent for marking her attendance and issuance of the joining letter.

3. It is the case of the petitioner that being aggrieved by the inaction on part of the respondent authority, despite several visits and complaints, the petitioner filed a Civil Writ Petition bearing no.1673/2018 and the same was disposed of vide order dated

21.02.2018 directing respondent to positively respond to petitioner's letter within a period of two weeks and the fate of the same be conveyed to the petitioner within a week. The respondent failed to comply with the aforesaid order. Therefore, the petitioner was compelled to move a contempt petition vide Contempt Case (Civil) No.309/2018, thereafter only the respondent passed the impugned order.

4. Not satisfied with the order, the petitioner preferred an RTI application and received a reply thereto wherein it was revealed that respondent had 33 vacancies in the UR/general category for the post of PGT/Lecturer (Hindi) and because of joining of only 21 candidates in the said category and post, there are 12 posts lying vacant in the current advertisement cycle till date.

5. Learned counsel for the petitioner submits that since the petitioner was eligible to empanel for Guest Teachers, therefore, she was called for verification of the documents. However, even her attendance was not marked by the respondent and not kept in the panel of the Guest Teachers.

6. In the counter affidavit filed on behalf of the respondent, it is

stated that the claim of the petitioner for engaging as a Guest Teacher on the basis of public notice dated 26.05.2017, was only for the Academic Year 2017-18 for engaging upto 10.05.2018 or commencement of summer vacations whichever is earlier. Thus, the present petition deserves to be dismissed.

7. Learned counsel appearing on behalf of the respondent submits that a public notice dated 26.05.2017 shows that the purpose of issuing the said public notice was only making a panel of Guest Teachers. Therefore, once the panel has been finalized, further engagement as Guest Teacher is to be taken on the basis of requirement expressed by any school. Therefore, any person who was engaged pursuant to the said public notice was enrolled in the panel of Guest Teachers. Such person, who is enrolled as Guest Teacher in the panel, has not any vested or legal right to be further engaged as a Guest Teacher. Thus, there is no merit in the petition and deserves to be dismissed.

8. I heard learned counsel for the parties.

9. In the counter affidavit, it is admitted that there are currently 20 candidates, who are on panel, have not been allotted any school yet, but supplied only list of 18 candidates those are on panel. Whereas, as per

order dated 11.12.2017 passed in Contempt Case (Civil) No.1133/2016, it is admitted fact that 26031 are vacancies for teachers, which did not include 9000 new posts created by Government of NCT of Delhi, were still lying vacant in the schools run by Government of NCT of Delhi and three Municipalities. Moreover, when the vacancies would be filled on a regular basis, “last in first out” principle will be applicable.

10. In the impugned order dated 24.04.2018, it is stated by the respondent that the candidature of the petitioner may be considered for the post of Guest Teacher PGT (Hindi) in future, subject to availability of the vacancy and subject to the production of Medical Fitness Certificate from the competent medical authority.

11. It is not in dispute that petitioner can be put in the panel of Guest Teachers only if she is medically fit. However, that situation has not come in the present case. It is also not in dispute that all the candidates including the petitioner were directed to appear in the office of the respondent between 01.02.2018 to 03.02.2018. The petitioner despite the fact that she had a caesarean delivery only few days back, appeared before the office of the respondent on 03.02.2018.

12. Putting the name of the petitioner in the panel of Guest

Teachers would not give any legal right to be appointed in any of the school. The panel shall be utilized as and when there is requirement from any school and the selected candidates from the panel of Guest Teachers shall be removed when the regular teachers are appointed.

13. This Court during hearing of the present case specifically asked from the counsel for respondent that whether the panel prepared pursuant to public notice dated 26.05.2017, has been scrapped. In reply, it is not denied. It is stated that the petitioner may participate as and when respondent invite application for drawing a panel for Guest Teachers. It seems that the panel which is made pursuant to public notice dated 26.05.2017 is continued, but the petitioner has been denied for adding her name in the panel for Guest Teachers.

14. This Court also put a specific query to the counsel for the respondent that if any candidate is simply put in the panel for Guest Teachers whether he would be entitled for salary or any perks, learned counsel for the respondent replied in negative and submits that the service of the Guest Teachers shall be utilized on daily basis, as and when there is a requirement from any school. Thus, the Guest Teachers are not burden on the Public Exchequer.

15. It is not disputed that the petitioner is eligible for panel for Guest Teachers. Therefore, I am of the view that the respondent due to some communication gap has not selected the petitioner for the panel for Guest Teachers.

16. It is established that the petitioner got selected on 16.10.2017, however, she delivered a child through caesarean process on 28.07.2018. Thereafter, vide another circular dated 30.07.2018, the selected candidates were directed to appear at their office between 01.02.2018 to 03.02.2018 and despite the fact that the petitioner had a caesarean delivery, she appeared before the office for verification of document. The respondent did not entertain the petitioner's case, thinking that she recently delivered a child through caesarean process, therefore would not be able to work if any requirement comes from the school.

17. Women who constitute almost half of the segment of our society have to be given due weightage and honoured and treated with dignity at places where they work to earn their livelihood. To become a mother is the most natural phenomena in the life of a woman. Whatever is needed to facilitate the birth of child to a woman who is in service,

the employer has to be considerate and sympathetic towards her and must realise the physical difficulties which a working woman would face in performing her duties at the work place while carrying a baby in the womb or while looking after the child after birth.

18. Based upon the aforesaid discussion, I direct the respondent to give place to the petitioner in the panel maintained by the respondent and her services can be utilized as and when required by any school obviously subject to her medical fitness.

19. Accordingly, the respondent is directed to issue necessary order to this effect within two weeks from the receipt of this order.

20. The petition is, accordingly, allowed.

CM APPL. No.36913/2018

21. In view of the order passed in the present writ petition, this application has been rendered infructuous and is accordingly, disposed of such.

**(SURESH KUMAR KAIT)
JUDGE**

**DECEMBER 12, 2018
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