

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-7371 of 2019

Date of decision:-18.03.2019

Jaya Sharma

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Ravneet Singh Joshi, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

Challenge in the instant petition is to the order dated 15.02.2019 (Annexure P-11) issued by the Director of Public Instructions (Colleges Punjab) and in terms of which the claim of the present petitioner alongwith certain others to be absorbed permanently in the Sant Baba Seva Singh Memorial, Government College for Girls Guru Ka Khuh Munne (Noorpur Bedi) Tehsil Anandpur Sahib, District Rup Nagar and for release of salary has been declined.

Counsel would argue that the petitioner has been serving continuously on the post of Assistant Professor in the subject of Economics and inspite of having discharged her duties and responsibilities diligently, the salary has not been released. Further urged that the petitioner had also been burdened the responsibility of DSW (Dean Student Welfare) and which duly discharged and no remuneration in lieu thereof has been paid. It is also the contention raised that the college in question had been “**taken over**” by the Punjab Government in the year 2016 and at that point of time the petitioner was serving in the College and

as such had a vested right to be treated as a permanent employee under the Punjab Government as the college itself stood taken over.

Counsel for the petitioner has been heard at length and the pleadings on record have been perused.

Appended as Annexure P-3 alongwith the writ petition is a copy of the order dated 21.12.2016 issued by the Principal Secretary, State of Punjab, Department of Higher Education and Language and in terms of which approval had been granted to take over respondent No.3 college and to treat the same as a Government College. Perusal of such order further reveals that alongwith taking over of the college, such teaching staff fulfilling the conditions as laid down by UGC as also the conditions laid down by Punjab Government, would also be taken over.

Apparently, the present petitioner alongwith others had earlier filed a CWP No.14326 of 2018 raising a two-fold claim i.e. (i) to determine and to pay to them their monthly salary w.e.f. 21.12.2016 and (ii) to regularize the services or in the alternate to absorb them as Guest Faculty Teachers. The afore-noticed writ petition was disposed of on 31.05.2018 with a direction to the respondent authorities to consider the representation that had already been submitted by the petitioners therein. It is in purported compliance of the directions issued by the writ Court in CWP No.14326 of 2018 that the impugned order dated 15.02.2019 at Annexure P-11 has been passed.

The impugned order reveals that to examine the claim of the petitioners as also other employees including the petitioner herein a committee of experts had been constituted vide DPI's letter dated 20/25.07.2017. The committee had examined the qualifications of each

staff members of the erstwhile private college including the teaching as also non-teaching staff. The final conclusion arrived at was that only nine teaching staff members fulfilled the requisite qualifications as per UGC guidelines/Punjab Government conditions and likewise five employees from the non-teaching staff fulfilled the afore-stated requirement. It has further been recited that 13 teaching and non-teaching staff members of the college including the petitioner herein do not possess the requisite qualifications and as such do not fulfil the condition specifically contained in the decision dated 21.12.2016 while taking over the college at Annexure P-3.

Even during the course of hearing today, counsel was called upon to advert to the relevant UGC conditions/Punjab Government Conditions laying down the essential qualifications for the posts in question i.e. Assistant Professor and to demonstrate that the petitioner fulfills the same. No response whatsoever is forthcoming. The instant petition is completely lacking in terms of the necessary averments/pleadings as regards the qualification possessed by the petitioner.

Needless to observe that taking over of respondent No.3-college as also the staff including the teaching staff would be governed by the decision contained in the order dated 21.12.2016 at Annexure P-3, issued by the Principal Secretary, State Government, Department of Higher Education and Language.

The petitioner having failed to establish that she fulfils essential qualifications laid down by UGC/Punjab Government as regards the post of Assistant Professor, no infirmity is found in the impugned order dated

15.02.2019 at Annexure P-11.

Writ petition is accordingly dismissed.

At this stage, counsel would interject to submit that even if the State Government is not to be burdened as regards the salary component but the college has utilized her services on the post of Assistant Professor and as such petitioner ought to be paid/compensated in lieu thereof. Without making any observations as regards the merits of such claim, it is left open for the petitioner to raise a claim in such regards against the management of the college if so advised and in accordance with law.

(TEJINDER SINGH DHINDSA)
JUDGE

18.03.2019

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No