

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 21977 of 2016(O&M)
DATE OF DECISION : 20.11.2019

Dr. Navneet Kaur

... Petitioner

versus

State of Punjab & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Argued by : Mr. D.S. Patwalia, Sr. Advocate with
Mr. A.S. Chadha, Advocate,
for the petitioner.

Mr. P.S. Bajwa, Addl. AG Punjab
for respondents No.1 and 2.

Mr. D.V. Sharma, Sr. Advocate with
Mr. Tushar Sharma, Advocate
for respondent No.3.

ARUN MONGA, J.

1. Grievance of the petitioner, *inter alia*, who is stated to be working uninterruptedly since 31.10.2011 as Director(Computer) is qua her non consideration for regularization of her services in terms of her appointment per advertisement dated 29.09.2011(Annexure P-3), pursuant where to she had applied and was selected and appointed.

2. While issuing notice of motion, my learned Senior Brother Jaswant Singh, J had succinctly summed up the case in following terms:-

“Petitioner-Dr. Navneet Kaur was appointed on contract basis for a period of five years w.e.f. 31.10.2011 on the newly created post of Director (Computer) by the Punjab School Education Board (for short 'the Board') after advertisement and following proper procedure of selection. As per advertisement, the

petitioner was entitled to be considered for regularization on completion of five years of contract period. The grievance of the petitioner is that inspite of her work and conduct being satisfactory, her case is not being considered for regularization on completion of contract period on 27.10.2016 for extraneous reasons at the hand of the Government, ostensibly in exercise of the powers of the Government under Section 21(1) of the Punjab School Education Board (Amendment) Act, 2005 (for short 'the Act'). Ancillary prayer is for release of withheld salary of the petitioner since March 2015. It is, inter alia, contended that as per the powers vested with the Board, the engagement of the petitioner is perfectly legal and justified. Even the Board in the light of work and performance of the petitioner is inclined to regularize the services of the petitioner, however, the Government is not inclined to grant approval to the same under the misplaced interpretation of the powers vested under Section 21(1) of the Act."

3. Before advertng to the case, it would be apposite to reproduce the relevant clause of the advertisement(Annexure P-3) mentioned in the aforesaid order, as below:-

"Punjab School Education Board-General Appointments-Applications are invited for the regular/ on deputation/ on contract basis appointment on the following posts on the prescribed performa which can be downloaded from the Board's website www.pseb.ac.in-

1 and 2 xxxx

3 Director Computer-One post(on deputation in the scale of Rs.37400-67000+8800 or on contract basis fixed pay for 5 years, the services of the person appointed on this post can be regularized)

4 and 5 xxxx

Educational qualification/ experience and other conditions prescribed for these posts can be seen on the above said website."

4. The above advertisement was preceded with sanction letter/ order dated 04.02.2011(Annexure P-2) issued by the State Government to the respondent Punjab School Education Board(hereinafter referred to as Board) by stating as under:-

“2. In this regard, Punjab School Education Board has been allowed to create and fill two posts of Directors on deputation initially for five years on contract basis and one post of Joint Secretary through promotion from the Department keeping in view the interest of Education Board. The permission of the Punjab Government to fill these three posts be considered as the permission of Regularization Committee of new posts constituted vide Notification dated 17.04.2009.”

3. xxxx

4. Director-Printing and Publication and Director-Computer be appointed through advertisement on deputation for five years. The performance/ conduct of work of these officials be appraised from time to time, after due consideration whereof, these employees can be removed before completion of one year by serving prior notice. These officials will be paid monthly salary on payment of lumpsum amount. The proposal of Contractual appointment, educational and professional qualifications, required experience, age limit and lumpsum amount to be paid as salary will be sent by Punjab School Education Board for obtaining necessary approval.”

5. However, the respondent Board in its meeting held on 30.10.2011 vide item No.6 Sr. No.2 decided to convert the appointment on the post of Director Computer from contractual appointment to regular basis.

6. The petitioner successfully participated in the selection process.

Vide appointment letter dated 31.10.2011 she was offered the post of

Director Computer, *inter alia*, on following terms and conditions:-

“1. You have been appointed Director Computer(On contractual Basis) by direct recruitment in Punjab School Education Board in the grade of 37400-67000+8800.

2. You will be on probation for a period of one year and likely to be confirmed against this post provided your work and conduct is satisfactory during probation period. In case during the period of probation your work and conduct is not found satisfactory, the period of probation may be extended further up to two years.”

7. An order dated 01.11.2011(Annexure P-6) was passed that the services of the petitioner were regularized with effect from 31.10.2011 itself in tune with Board decision dated 30.10.2011. It seems that not only the services of the petitioner but also those of another set of 37 newly appointed Teachers on contractual basis were also regularized with effect from the date of their original/ initial appointments.

8. The State Government took adverse notice of the abrupt regularization and issued a letter/ memo dated 06.04.2013(Annexure P-7) to the respondent Board pointing out that regularization orders have been passed in gross violation of Government instructions/ policy issued vide letter dated 17.11.2011(Annexure P-11). It was further stated that Government has taken a serious view of this irregularity and it was directed that action be taken after fixing the responsibility of Officials/ Officers. The case of regularization of the concerned employees be reconsidered on merits, in view of Government policy/ instructions, and if needed, the matter be placed before the Board.

For ready reference, relevant of instructions dated 17.11.2011

(Annexure P-11) is reproduced hereinbelow:-

“4. Therefore the Punjab Govt. has decided to regularizes the services of the employees of different Boards/ Corporations/ Commission under different Departments, presently working on daily wagers/ work charged and contractual basis, in view of the terms and conditions circulated by the Department of Personnel vide instructions issued vide No. 11/8/2009-04PP3/395 dated 18/3/2011 in respect of regularization of services of the employees working on contractual basis in different Govt. departments and letter No. 11/8/2009-04 PP3/397 dated 3/3/2011 vide which instructions have been issued regarding regularization of the service of the employees working on daily wages/ work charged basis, the employees of the Board/ Corporations/ Commissions under different Cooperative departments working on daily wages/ work charged/ contractual basis may be regularized on the terms and conditions mentioned in the above said instructions Govt. has authorized the Department of Finance (Directorate of Disinvestment) for issuance of these instructions.

5. The concerned Board of Directors/ Competent Authority shall recommend for the regularization of services of the daily wager/ work charged and contractual employee, who fulfill the conditions mentioned in the above said letter, while taking into consideration, the financial condition of the institution. Therefore, only those institutions shall recommend the regularization of the employees who can bear their financial burden at their own. For this purpose there shall be no financial assistance directly or indirectly made by the Government.

6. Concerned Boards/ Corporations shall send their recommendations to the Administrative Departments, who after examining the proposals to the Finance Department in Directorate of Disinvestment for obtaining approval of the Chief Minister of Punjab through Chief Secretary, regarding regularization of the services of these employees.

7. The services of these employees will be regularized

with immediate effect. No financial and notional benefit shall be given to these employees for the services rendered earlier.”

10. In the above backdrop, the petitioner was sanguine that her services would be regularized in terms of order dated 01.11.2011(Annexure P-6) with effect from 31.10.2011, but the same were put on hold in view of the adverse notice taken by the State Government. Be that as it may, the petitioner continued to work on contractual basis and in this entire melee she was not even paid the salary for the work rendered by her.

11. Aggrieved, the petitioner approached this Court by way of CWP No. 3955 of 2012 claiming disbursement of arrears of her salary in terms of her appointment letter. Vide an order dated 17.09.2013(Annexure P-12) the writ petition was disposed of in view of the statement of learned counsel for respondent Board that salary as admissible to “regular employee” would be paid to the petitioner within a period of two weeks. No further orders were, thus, deemed necessary qua the non-payment of salary to the petitioner.

12. Apart from the controversy with regard to the nature of appointment of the petitioner viz. contractual or regular, the very appointment of the petitioner itself was challenged before this Court vide writ petition bearing CWP No. 4786 of 2012, which was disposed of vide order dated 22.07.2013 and eventually led to passing of fresh orders dated 22.08.2013(Annexure P-10) qua the terms of appointment of the petitioner in following terms:-

“Smt. Navneet Kaur daughter of Sh. Dalir Singh was appointed as Director (Computer) on contract basis vide Office Order No.2764 dated 31.10.2011, after which her services were regularized on the approval of the Government

vide Office Order No. PPSB-Estt-5ES-2011/2785 dated 01.11.2011 in the grade of Rs.37400-67000+8800 as per decision at Sr. No.2 of Agenda No.9 of the Meeting of the Board held on 30.10.2011. The regular appointment of Smt. Navneet Kaur was challenged vide Civil Writ Petition No.4786 of 2012; Jagdish Rai Verma versus State of Punjab and other. In Civil Writ petition No. 4786 of 2012, the Hon'ble High Court, while disposing of the writ on 22.07.2012, regarding regularizing the services of Smt. Navneet Kaur, Director (Computer) vide letters dated 06.04.2013 and 06.05.2013 issued by the Government, it was ordered that the Board will reconsider the regular appointment of Smt. Navneet Kaur and will take decision within one month. In compliance to the order of the Hon'ble High Court, after deliberating the whole issue at Agenda No.3 of the Board Meeting held on 22.08.2013, it was approved by the Board that the appointment of Smt. Navneet Kaur, Director (Computer) will continue to be on contract basis as per earlier practice, in the interest of the official work.

2. As per the decision of the Board, she will be paid the consolidated salary on contract basis on the initial scale and grade pay of Rs.37400-67000+8800 from 22.08.2013.

3. As per the decision taken on the agenda items no.20 of the Board meeting held on 27.06.2013, she will be considered for regular appointment after completing three years' terms, like other employees appointed on contract basis, as per the Notification dated 17.11.2011 issued by the Government."

13. The position that emerges, thus, after perusal of various orders passed from time to time, is that the petitioner's services were though regularized with effect from initial date of her appointment, but later on in view of the adverse notice having been taken by the State Government, coupled with the challenge to her appointment, the said regularization was postponed by the Board till completion of three years of contractual service.

In the return filed on behalf of respondent Board the claim of

the petitioner has been resisted on the ground that petitioner is not entitled to relief in view of Government instructions/ notification dated 17.11.2011 and similar is the stand taken by the State Government in an independent return filed on behalf of respondents No.1 and 2. It is further resisted on the ground that petitioner's father being the Chairman of the Board at the relevant time, she was beneficiary of undue favoritism and, therefore, no indulgence is warranted by this Court in exercise of extra ordinary writ jurisdiction.

15. I have heard the rival contentions of learned counsel for the parties and perused the pleadings along with record appended thereto.

16. Per Mr. D.S. Patwalia, Senior Advocate assisted by Mr. A.S. Chadha, learned counsel for the petitioner the only question that arises for adjudication is whether petitioner is entitled to regularization on completion of three years of contractual service in terms of order dated 22.08.2013 (Annexure P-10) or on completion of 5 years as provided in her original appointment letter dated 31.10.2011(Annexure P-5).

17. He has further contended that it is forgone conclusion that the petitioner is entitled for regularization in view of the fact that respondent Board is an autonomous body as has already been held by this Court in a judgment rendered in CWP No. 28657 of 2013, titled as **Amanpreet Kaur Dhillon Vs. State of Punjab & Ors.**, decided on 01.04.2019, which in turn was followed in a later case titled as **Jagdev Singh & Ors. Vs. State of Punjab & Ors.**(CWP No. 14404 of 2012, decided on 18.10.2019), which squarely covered the case of the petitioner. He has also referred to the decision in LPA No. 1400 of 2013, (State of Punjab Vs. Amarjit Singh & Ors. He submitted that State Government has no role to interfere in day to

day affairs of the respondent Board. In the premise, the State, in no manner, can direct the respondent Board to reject or annul regularization of the services of the petitioner, whose selection was made after adopting due procedure. According to him, respondent Board is well within its statutory right being an independent creation of statute viz. Punjab School Education Board Act, 2005, as amended from time to time. The Board vide agenda item No.20 dated 27.06.2013 had decided to regularize the service of the petitioner on completion of three years of contractual service vide orders dated 22.08.2013(Annexure P-10). Accordingly, petitioner's services deserved to be regularized on completion of three years of contractual service and no further approval is/was required from the State Government. He further submitted that decision of the respondent Board is within its statutory powers and, therefore, that is the end of the matter.

18. Per contra, Mr. D.V. Sharma, Senior Advocate assisted by Mr. Tushar Sharma, Advocate and Mr. P.S. Bajwa, Addl. AG Punjab strongly resisted the aforesaid contentions of learned Senior counsel for the petitioner.

19. Learned Senior counsel appearing for respondents No. 3-Board submitted that once the very initial appointment of the petitioner is tainted and being in gross violation of the terms of creation of the post of Director (Computer), the entire process thereafter is *void, ab initio* and cannot be given any legitimacy. He contended that petitioner's father, at the relevant time, was Chairman of the Board and she has been a beneficiary of complete favoritism and nepotism and the entire process of her selection was a complete moonshine and the merit thereof was given a complete go-by. He strongly relied on memo dated 04.02.2011(Annexure P-2) vide which two

posts of Directors i.e. (a) Printing and Publishing and (b) Computer were created by the State Government. He argued that appointments were to be made strictly in terms of the conditions envisaged in memo dated 04.02.2011. He submitted that a bare perusal thereof would reveal that appointment was to be made on deputation or on contract for a period of five years by way of advertisement. The appointees were to be paid consolidated salary for the said contractual five years period. The said memo also envisaged that qualification, experience, age and consolidated salary to be paid was to be determined by the State Government. He submitted that none of these was complied with, rendering the very initial appointment of the petitioner as totally illegal.

20. He further argued that assuming the initial appointment of the petitioner, at this stage, cannot be gone into, then the services of the petitioner cannot be regularized in view of the government instructions dated 17.11.2011(Annexure P-11), which are applicable to the respondent Board.

21. He further submitted that under Section 21(1) of the Punjab School Education Board(Amendment) Act, 2005, the State Government is empowered to exercise superintendence and control over the respondent Board and its Officers and, therefore, until the State Government grants sanction to regularize the services of an Officer of the respondent Board, the same cannot be done.

22. For ready reference, Section 21(1) of the Act is reproduced hereinbelow:-

“21(1) The State Government shall exercise superintendence, direction and control over the Board and its officers and may call for any information which it may consider necessary.”

23. In the aforesaid background, the controversy that needs to be adjudicated is, whether the petitioner is entitled to regularization, at all? Or would continue on contract basis and in case her services are to be regularized what would be the cut-off date?

24. At the first flush, it does seem that the petitioner was perhaps a beneficiary of some favoritism, as contended by learned counsel for respondent Board. Particularly, the hot haste in which her appointment was regularized. Just a day after her appointment, her services were regularized with effect from her initial appointment itself. However, it cannot be lost sight of that her appointment is not under challenge in the present proceedings. In fact her appointment was challenged in an earlier round of litigation vide CWP No. 4786 of 2012, titled as Jagdish Rai Verma Vs. State of Punjab and another, which was disposed of by Division Bench of this Court vide order dated 22.07.2013(Annexure P-9) in following terms:-

“The grievance made by the petitioner in this PIL was qua the appointment of respondent No.4/Smt.Navneet Kaur. She was appointed as Director Computer on contract basis on 31.10.2011, at the time when her father was Chairman of the Board, though he is stated to have recused himself from that appointing process. On the very next date, the services of Smt.Navneet Kaur were sought to be regularised. Learned counsel for respondent No.2 submits that no PIL should be maintained in a service matter. Learned counsel for respondent No.1/State of Punjab has filed a reply in Court, which is taken on record. In terms of this reply, it has been averred that the grade was wrongly granted to Smt.Navneet Kaur in violation of the approval by the Government vide letter dated 04.02.2011. The Government has rejected the request for expost facto approval of the appointment on regular basis vide

its communication dated 06.05.2013 and the Board has been directed to review its decision and take a suitable action, after adopting the proper procedure vide letter dated 06.04.2013. We are also informed that respondent No.3, the father of respondent No.4, is no more the Chairman of the Board. In view of the aforesaid reply filed by the State of Punjab, it is not necessary to make any other observation, but we only direct the Board to take action in accordance with the communications of the State Government within a maximum period of one month from today. The petition accordingly stands disposed of.”

25. The above order dated 22.07.2013 of Division Bench has since attained finality as no SLP was preferred against the same. At this stage, therefore, to reopen an issue which has already attained finality, would not be proper. In any case, it is rather intriguing that on one hand respondent Board is strongly opposing the regularization of petitioner on the ground that her initial appointment itself was hit by *vice* of favoritism and yet the burden of the same is being shifted on this Court, without there being any action taken on the part of respondent Board qua alleged favoritism in the petitioner's appointment.

26. Vide letter dated 06.04.2013 Annexure P-7, the Government had written to the Board that the services of 37 newly appointed teachers (including the petitioner herein) on contractual basis had been regularized from the date of their initial appointment, in gross violation of the Government policy/ instructions and that the Government had taken a serious view of this irregularity. Vide the said letter, the Government had directed the Board that action be taken after fixing the responsibility of the concerned official/officers and the case of regularization of the concerned

employees (including the petitioner) be reconsidered on merits in view of the Government policy/ instructions and, if need be, the matter be placed before the Board. Further, it was noticed in the said letter dated 06.04.2013 (Annexure P/7) that certain decisions were also taken/implemented subject to the approval of the Government and it was ordered that the resolutions/decisions which had been passed against the Government policy/instructions may be treated as rejected by the Government and all such resolutions be reviewed in view of the Government policy/ instructions and placed before the Board for reconsideration.

27. Not only that, as stated above, in CWP No.4786 of 2012 Jagdish Rai Sharma v. State of Punjab & Others, a Division Bench of this Court had also observed in its order dated 22.07.2013 (Annexure P-)9 that in terms of the reply of respondent No. 2-the Board, Government had rejected the request for *ex-post facto* approval of the appointment on regular basis vide its communication dated 06.05.2012 and the Board had been directed to review its decision and take a suitable action after adopting the proper procedure. While passing the said order, the Division Bench of this Court had also directed the Board to take action in accordance with the communication of the State Government.

28. Thus, the Board had the second opportunity, in fact was under directions, firstly from the Government vide letter dated 06.04.2013 (Annexure P-7) and secondly by a judicial order dated 22.07.2013 (Annexure P-9) passed by the Division Bench of this Court, to reconsider the case of regularization of the concerned employees (including the petitioner) on merits, in view of the Government policy/instructions and, if need be, to place the matter before the Board.

29. If, as is now being contended, it was a case of irregular initial appointment, nothing prevented/stopped the Board to take corrective measures and pass appropriate orders while reconsidering the case of regularization of the petitioner on merits, pursuant to the said direction of the Government and the orders passed by the Division Bench of this Court. That was not done. Rather, on reconsideration of the case pursuant to the Government's direction and this Court's order, the Board took a conscious decision and passed fresh order dated 22.08.2013 to regularize the services of the petitioner on completion of three years of service.

30. Obviously, the Board, when it took the conscious decision and passed fresh order dated 22.08.2013 (Annexure P-10) to regularize the services of the petitioner on completion of three years of service, had rectified or condoned any irregularity in her initial appointment. The Board is now precluded, by its act and conduct, from raking up the contention that the petitioner's initial appointment was irregular. In any case, the stage for questioning the petitioner's initial appointment is long past over. This contention has, therefore, to be rejected.

31. To be noted here that said order dated 22.08.2013 is not under challenge and writ petition in fact has been filed to seek compliance thereof in terms of para No.3 of the terms of appointment of the petitioner which envisages that she will be considered for regular appointment after completing three years term, like other employees appointed on contract basis, as per the Notification dated 17.11.2011 issued by the Government.

32. Furthermore, it is not the case, either pleaded or argued, that appointment of the petitioner is bad on account of any *malafide*, misrepresentation or fraud. As noted by Hon'ble Division Bench of this

Court that at the time of appointment of petitioner, her father, who was Chairman of the Board, had recused from the selection process. Merely, because petitioner's father happened to be Chairman, would not dis-entitle her for being considered for appointment as she is as much equal as any other, under Article 14 read with 16 of the Constitution of India. None of the candidates who participated in the selection process have come forward to challenge her selection on that account.

33. It is not the case that post was not advertised publicly and public at large was not given opportunity to apply qua the same. Even otherwise, in the return filed by the respondent Board none of the contentions argued against the initial appointment of the petitioner has been pleaded and, therefore, to that extent even the arguments seem to have been addressed beyond the pleadings. The respondent Board had not sought amendment of the written statement nor did it rescind or withdraw the stand taken therein.

34. Accordingly, the entire emphasis questioning the initial appointment of the petitioner by learned Senior counsel for respondent Board as well as learned State counsel seems to be misplaced and cannot be legally permitted to be raised at this juncture as the same has attained finality.

35. There is another aspect of the matter. The Board is trying to blow hot and cold in the same breath. Even though the father of the petitioner having demitted from the office of the Chairman, Board has been endeavoring to regularize the services of the petitioner. But the State Government ostensibly in exercise of powers under Section 21 of the Act did not accord the requisite sanction and is objecting to the same on the ground of being in violation of instructions dated 17.11.2011. Letters dated

20.08.2014(Annexure P-20) read with letters dated 15.06.2015 (Annexure P-13) and 09.12.2015(Annexure P-14) would reveal that respondent Board is rather supporting the stand of the petitioner seeking her regularization even after the same was objected to by an earlier letter of the State Government dated 06.04.2013(Annexure P-7), leading to the filing of the present writ petition.

36. This necessarily now brings us to controversy as to whether letter dated 06.04.2013(Annexure P-7) issued by State Government would prevail over the letter dated 22.08.2013(Annexure P-10) and subsequent letters of respondent Board vide which a conscious decision was taken to regularize her service on completion of three years' contractual service, pursuant to directions of this Court dated 22.07.2013, *ibid*.

37. As already stated, the said letter dated 22.08.2013(Annexure P-10) is not under challenge. It envisages that appointment of the petitioner will continue to be on contract basis and she will be paid the consolidated salary on contract basis in the initial scale of Rs.37400-67000 with a grade pay of Rs.8800 and she will be considered for regular appointment after completing three years' terms, like other employees appointed on contract basis, as per instructions dated 17.11.2011.

38. Before advertng to instructions dated 17.11.2011, it would be necessary to note here that vide an earlier judgment rendered by this Court in the case of Jagdev Singh and others(supra), it has been held that superintending powers of the State Government under Section 21 of the Act come into play only in those cases where the State Government is of the opinion that there has been certain violation of the provisions of the Act. Superintendence and control of the Government in exercise of powers under

Section 21 of the Act cannot be construed or extended to day to day decisions of the Board concerning the appointment and service conditions of its employees. Especially, in view of the fact that it is an autonomous statutory body created by legislative enactment and is, therefore, a separate and distinct legal entity within the meaning of Article 12 of Constitution of India and is distinct from State Government.

39. Coming now to the instructions dated 17.11.2011. A perusal of the said instructions would reveal that letter and spirit of the same is essentially oriented around those cases where employees have been working on daily wages/ work charge basis and on contract basis akin and cognate to the category of daily wagers/ work charge employees.

40. Petitioner has been appointed on the post of Director (Computer) which seems to be an Officer cadre, on the premise from the very beginning that her services can be regularized in due course on successful completion of her probation period. The respondents have not pleaded or argued that her work is not upto mark. Rather letter dated 15.06.2015(Annexure P-13) written by Chairperson of the Board, referred to above, makes it evident that the petitioner is discharging her duties and responsibilities with hard work and devotion. The work is still available. In my opinion, the petitioner, who is working since 2011 cannot be made to suffer for no fault of her.

41. Furthermore, even otherwise, instructions dated 17.11.2011 clearly envisaged that it was for the concerned Board or institution to recommend for regularization of the services of contractual employee subject to the financial condition of Board/ institution. It is further stated that only those institutions shall recommend for regularization of employees

who can bear financial burden at their own. These instructions rather support petitioner's case. It is neither pleaded nor argued that Board who has recommended for the regularization of services of petitioner vide letter dated 22.08.2013, cannot bear financial burden qua the said regularization. Rather letter dated 20.08.2014(Annexure P-20) was again written by Board reiterating its decision to regularize services of petitioner on completion of three years of contractual service, followed by letters dated 15.06.2015 (Annexure P-13) and 09.12.2015 (Annexure P-14). Thus, letter dated 06.04.2013(Annexure P-7), which is otherwise not legally sustainable, as held in Jagdev Singh's case (supra), it is order dated 22.08.2013 (Annexure P-10), which will prevail. An indefeasible and legitimate right accrued in favour of petitioner qua regularization of her service as per letters, *ibid*.

42. In the premise, I see no reason as to why relief of regularization of service cannot be granted to the petitioner in terms of orders dated 22.08.2013(Annexure P-10), on completion of 3 years' service, as per decisions of the Board itself, taken from time to time.

43. As regards objection of State taken vide letters dated 06.05.2013 & 26.12.2016(Annexure R-1/3 & 7 respectively) is concerned, the same is not sustainable and is liable to be rejected. Respondent-Board in its wisdom had taken a conscious decision vide order dated 22.08.2013 (Annexure P-10), followed by letters dated 20.08.2014, 15.06.2015 and 09.12.2015 (Annexures P-20,P-13 & P-14 respectively), seeking permission to regularize the services of petitioner as per decision of the Board. There was, thus, no reason for the State Government to decline approval to decisions taken by the Board. As already noted above, on broader principles of law no such prior sanction/ permission was required to be taken as the

Board is an independent and autonomous body and is fully competent to take decision with regard to the service conditions of its employees. The superintending powers of State Government, as already held, would come into play only when there is any violation of the provisions of the Act, under which the Board has been constituted, which is not the position here.

44. In view of the discussion above and reasoning contained therein, present writ petition is allowed. The respondents are directed to regularize the services of the petitioner in terms of order/ letter dated 22.08.2013(Annexure P-10), which shall be for all intents and purposes. The petitioner will be entitled to all the consequential service benefits. The arrears of salary etc. shall be calculated and disbursed to her along with interest @ 6% per annum from the date of entitlement till actual disbursement. The necessary exercise be carried out within a period of three months from the date of receipt of certified copy of this judgment.

(ARUN MONGA)
JUDGE

November 20, 2019

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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |