

LPA No. 1771 of 2018 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**LPA No. 1771 of 2018 (O&M)
Date of decision: 18.01.2019**

The State of Haryana and others

... Appellants

Versus

Sudesh Kumari

... Respondent

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

**Present: Mr. Deepak Balyan, Additional A.G. Haryana,
for the appellant.**

**Mr. R.K. Malik, Sr. Advocate, with
Mr. Sunil Hooda, Advocate
for the respondent-caveator.**

KRISHNA MURARI, CHIEF JUSTICE (Oral)

This intra-court appeal, filed under Clause X of the Letters Patent, is directed against the order and judgment dated 6.12.2017, passed by the learned Single Judge, allowing the writ petition filed by the respondent herein.

The facts are that the respondent-petitioner was appointed as Guest Lecturer (Hindi), and she worked as such, from 21.7.2007 to 25.7.2007 in Government Senior Secondary School, Shekhpura, Sonapat. Thereafter, from 12.11.2007 to 29.2.2008, she worked in Government Senior

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Secondary School, Kharkhoda, Sonapat. Subsequently, from 12.2.2009 to 17.10.2012, she was posted in Government Senior Secondary School, Khanpur Kalan, Sonapat, and w.e.f. 28.1.2013, she was again posted in the same School. However, vide order dated 8.10.2012, her services were ordered to be terminated on the ground that she was not having the requisite qualification to be appointed on the post of Lecturer. Aggrieved, she made a representation to the Director, who appointed one Sh. Zile Singh, Deputy Director, as an Enquiry Officer to find out the factual position.

After examining the matter, the Enquiry Officer submitted a report dated 15.1.2013, to the effect that the incumbent was fully qualified for the post and her appointment did not suffer from any infirmity. The said report was accepted by the Director, and vide order dated 28.1.2013, re-appointment of the petitioner was directed. In consequence of the aforesaid order, the respondent-petitioner re-joined the post on 28.1.2013 itself. Again, an order dated 11.3.2013 was passed withdrawing the order dated 28.1.2013 and terminating services of the petitioner. This order was put to challenge by filing a writ petition.

The learned Single Judge, finding that after a proper enquiry when no anomaly was found in her appointment and she was found to be fully qualified, in view of the report of the Enquiry Officer on the basis of which her re-appointment was ordered, held that there was no reason or occasion to pass the impugned order, withdrawing the re-appointment order. The learned Single Judge, after hearing the parties and considering the pleadings, returned the following findings, while allowing the writ petition:-

“In the opinion of this Court, once the matter had been re-enquired at a higher level by the Deputy Director himself

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and a report had come, it was not for the District Education Officer to question the same and get the order of appointment not effected and cancelled, as has been done. It is not for her to question and take the stand that the civil suit had not been filed. Once a proper enquiry has been made by the Deputy Director (Annexure P-2) whereby, the statements of various witnesses including the earlier Principals and the Drawing and Disbursing Officer had been recorded and a finding had been recorded that the husband was not involved in the adjustment of the petitioner as he was only a Clerk and it was a District Education Officer Sh. Dilbagh Singh who had adjusted the teacher. The plea taken is against the enquiry proceedings which had been accepted and in pursuance of that, she had been allowed to join duties on 28.01.2013 in Government Senior Secondary School, Khanpur Kalan. The stand of the State is, thus, totally unjustified and accordingly does not warrant any consideration.”

In our considered opinion also, the view taken by the authorities to withdraw the order of re-appointment of the petitioner on the ground that she did not file the civil suit, as per the order of the Court, which disentitle her for re-appointment, is totally baseless. This Court did not direct the petitioner to file a civil suit, rather she was given liberty to raise her claim by filing a civil suit, and it cannot be termed as a direction. The order passed by this Court has been clearly misread by the authorities. Furthermore, once an enquiry was conducted into the allegations by the Deputy Director and it was found that not only the petitioner was fully eligible to hold the post, but no role was played by her husband in getting her appointed. Thus, there was no good reason to terminate her services again, after re-appointing her on the basis of the enquiry report.

During the course of arguments, learned counsel appearing for

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the appellant failed to point out anything contrary to contradict the findings returned by the learned Single Judge. Even otherwise, the appeal is barred by delay of 41 days in filing and 169 days in re-filing.

In the circumstances, we do not find any infirmity in the impugned judgment of the learned Single Judge dismissing the writ petition. No illegality or error is reflected from the impugned order and judgment passed by the learned Single Judge, which may require interference.

The appeal is, thus, devoid of merit and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

January 18, 2019
AK Sharma

Whether speaking / reasoned:	YES
Whether Reportable:	NO