

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

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**CIVIL WRIT PETITION NO.2631 OF 2020
DATE OF DECISION: MARCH 03, 2020**

Manjit Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Akashdeep Sethi, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court, praying for issuance of writ of mandamus directing the respondents to appoint the petitioner on the post of Education Volunteer, which is lying vacant in the Primary School in Village Karampatti since the removal of Kulwinder Kaur wife of Bharpur Singh, on the complaint of the petitioner on the plea that she being not the resident of the Village was not eligible for appointment.

Counsel contends that the petitioner, in pursuance of a public notice, applied for appointment to the post of Education Volunteer in Village Primary School, Karampatti. One of the requirement for the candidate was that he/she should be a resident of Village. Petitioner, being the resident and eligible for appointment to the said post, applied for the same but in violation of the eligibility criteria, Kulwinder Kaur wife of Bharpur Singh, who was one of the teachers working in the Primary School,

was appointed as Education Volunteer. Petitioner submitted a representation and pursued the same by bringing to the notice of the competent authority about the illegal appointment of Kulwinder Kaur. The said fact having been found to be correct, services of Kulwinder Kaur were dispensed with with effect from 28.11.2011. After removal of Kulwinder Kaur, petitioner preferred various requests for appointment as Education Volunteer. When nothing was heard from the respondents, notice through counsel was served upon the respondents on 05.09.2019 (Annexure P-4), on which reply has been received by the petitioner from the District Education Officer, Elementary Education, Sri Muktsar Sahib, dated 22.10.2019 (Annexure P-5), wherein the factum with regard to Kulwinder Kaur being not the resident of the village stands admitted and it has also been admitted that her services were terminated because of the said reason. However, it has been mentioned in para 8 as follows:-

“That the para no.8 of the legal notice, it is submitted that Mrs.Kulwinder Kaur was remove from the post of Education Volunteer through the letter no.SSA/2011/7180 dated 28.11.11. But removal does not mean that there is vacancy of the post of Education Volunteer because post of education volunteer is not a civil post but as a stop gap arrangement. The Office of Director General School Education Punjab issued instructions through letter no.SSA/2011/HR/78472-491 Dated Chandigarh 18/07/2011 that no education volunteer would be appointed after 29/04/11. Annexure L 2 attached.”

A perusal of the above would clearly show that there was no sanctioned regular post against which the petitioner could be considered for

appointment and it was only a stop-gap arrangement, which had been given effect to. In any case, as per the instructions issued by the Director General School Education, Punjab, dated 18.07.2011, no Education Volunteer could be appointed after 29.04.2011. That being the factual position, the claim of the petitioner has been rightly rejected by the respondents. The plea, therefore, as taken in the present writ petition for issuance of a writ of mandamus would not survive. It may be added here that the petitioner has approached this Court after an inordinate delay of almost nine years from the date when the cause of action, if any, had arisen to the petitioner. That also is a ground, which goes against the petitioner.

The writ petition, therefore, being devoid of merit, stands dismissed.

March 03, 2020
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(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No