

CWP-5687-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-5687-2020

Date of Decision: 2<sup>nd</sup> March, 2020

Rajwinder Kaur

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. S.S. Swaich, Advocate,  
for the petitioner.

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AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the reason which has been assigned in merit list dated 10.10.2013 (Annexure P-11), whereby the candidature of the petitioner for the post of Craft Instructor (Cutting and Tailoring Instructor) under the Scheduled Caste (Majbi/Balmiki) category, has been rejected because she has obtained her degree through distance education.

2. Petitioner has approached this Court now after a period of almost seven years, the plea for the delay in approaching the Court is primarily explained by asserting that initially, stay order was granted by this Court in the year 2011 on the selection, which was, thereafter, vacated vide order dated 30.04.2015 (Annexure P-12), whereafter, the petitioner had submitted an application under the Right to Information Act, in the year 2015, copy whereof has been appended as Annexure P-15, which information, it is asserted, has been denied to the petitioner vide

communication dated 14.06.2019 (Annexure P-16). Another ground, which has been taken by the petitioner for explaining the delay is that the appointments to the posts have been made recently and therefore, cause of action has arisen to the petitioner now when persons, who were lower in merit than the petitioner, have been appointed.

3. This contention of the learned counsel for the petitioner cannot be accepted as the cause of action arose, as far as the petitioner is concerned, on 10.10.2013, when Annexure P-11 came into existence, wherein it was clearly mentioned that the candidature of the petitioner to the post of Craft Instructor (Cutting and Tailoring Instructor) has been rejected on the ground that she did not fulfill the requisite qualification as the degrees which have been obtained by the petitioner were through the mode of distance education. Petitioner did not approach the Court at the relevant time. The explanation which has been put forth is the stay order granted by this Court, which plea also would not be applicable to the petitioner in any manner, as her candidature could not have been accepted because of the pendency of the writ petition or because of the stay granted by this Court on appointment to the post in question unless her plea with regard to the rejection was set aside by this Court. In any case, the interim order granting stay on appointment stood vacated vide order dated 30.04.2015 (Annexure P-12) and therefore, the said plea, thereafter, in any case would not be applicable to the claim of the petitioner for explaining the delay.

4. Assertion has been made that an application under the Right to Information Act was filed by the petitioner in the year 2015 (Annexure P-

15). Although there is no date mentioned in the said application, however, taking the plea of the petitioner as such, the application was submitted by the petitioner in the year 2015 and had the information not been supplied under the Right to Information Act within a period of thirty days of submission of such application, petitioner had a right of filing an appeal under the said Act itself, which the petitioner failed to avail of.

5. Counsel has asserted that the another application, which has been filed by the petitioner led to a communication dated 14.06.2019 (Annexure P-16) having been received from the Director, Technical Education & Industrial Training Department, Punjab, wherein the information as sought by the petitioner has been denied to her. Petitioner could have preferred an appeal against the order which has been stated to be filed and is pending before the Appellate Authority and in any case, the delay which has occurred on this basis also is inordinate and cannot be made a ground for giving an opportunity to the petitioner to now approach this Court at this belated stage. The plea, therefore, with regard to the explanation for the delay in approaching this Court, as per the objection raised by this Court, is unacceptable.

6. Another plea which has been taken by the petitioner is that the appointments are being made to the posts in question now or has been made recently. Assertion has also been made that on appointment of the persons, who are lower in merit, the cause of action has arisen to the petitioner. This plea is again not acceptable in the light of the fact that the candidature of the petitioner was rejected in the year 2013 and since then, the petitioner has

not approached this Court or any other Court for redressal of her grievance. It is, at this belated stage, when the other persons are being appointed, the petitioner has approached this Court by way of the present writ petition. She has been sleeping over her rights from the very inception, as is apparent from the records and the pleadings, although an explanation has been sought to be projected but the same is not acceptable. Merely because a person lower in merit has been appointed, would not itself be a ground for now giving a cause of action to the petitioner. The initial cause of action is the one, vide which the candidature of the petitioner stood rejected i.e. on 10.10.2013 (Annexure P-11), which aspect has now been challenged by the petitioner after a period of almost seven years.

7. In the light of the above, finding no reason for the petitioner to have slept over her right and sitting on the fence for the outcome of the result of the other litigation, which has nothing to do so far as the candidature of the petitioner is concerned, cannot be accepted. The writ petition, therefore, stands dismissed.

2<sup>nd</sup> March, 2020  
*Harish*

(AUGUSTINE GEORGE MASIH)  
JUDGE

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