

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

CWP-10393-2020

Date of Decision: 24.07.2020

SANJAY DABAS

... PETITIONER

V/S

STATE OF HARYANA AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sunil K. Nehra, Advocate for the petitioner.

Mr. Sharad Aggarwal, AAG Haryana.

(The case has been taken up through video conferencing on account of Covid-19 pandemic)

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VIVEK PURI, J. (ORAL)

Heard and record perused.

Through the present writ petition, the petitioner is seeking to quash the order dated 16.3.2020 passed by the learned District Judge exercising the powers of Education Tribunal, Karnal vide which his appeal for quashing the Memo dated 2.5.2016 was dismissed with costs.

The petitioner was initially appointed to the post of Physical Education teacher in terms of the appointment letter dated 24.6.2005 (Annexure P-4) in the Grade of 5500-175-8300-EB-175-9000/P.M.

The petitioner has sought to assert his claim to work as PGT and the scale applicable to PGT from the date of his appointment. The assertion of the petitioner to the effect that he was appointed for PGT classes only cannot be accepted as the appointment letter has been issued for Physical Education Teacher and the same does not in any manner indicate that he was appointed as PGT or in the scale applicable to PGT.

The petitioner had raised a grievance with regard to distribution of time table as he was assigned Junior Classes for the academic session 2016-17 and in terms of the order dated 2.5.2016, he was directed to take the Sports period of the classes assigned to him.

Aggrieved, the petitioner had filed the appeal before the Tribunal and during the course of proceedings has sought to assert his claim to work as PGT and not TGT.

It has not been disputed that petitioner was appointed as Physical Education Teacher. There is nothing to suggest that any letter of appointment with regard to PGT was issued or any authority to work as such was conferred upon him at any point of time. Merely because in some of the communications, he has been mentioned as PGT, cannot be construed as a circumstance to conclude that he was appointed as PGT at any point of time.

It may be mentioned here that the order dated 28.10.2011 (Annexure P-8) pertains to the mutual exchange of Govt. Quarters wherein the petitioner has been mentioned as PGT. Furthermore, merely because he was appointed as Examiner or attended the workshop for PGTs cannot be construed as a circumstance to conclude that the petitioner was appointed as PGT. For the purpose of working and getting scale of PGT, there must be a valid appointment letter or conferment of any such status upon the petitioner, which is lacking in the instant case.

The petitioner is seeking discrimination on the score that Tirshem Kumar and Vikas Gupta are being granted PGT scales. In this regard, it may be mentioned here that both of them were appointed as PGTs in terms of the appointment letters dated 3.4.2007 (Annexure P-6).

In the event, the petitioner had been taking the senior classes for that he has been paid additional remuneration.

The representation of the petitioner for getting the PGT scale has been declined vide letter dated 28.10.2011 (Annexure P-7). The petitioner has no vested right to assert his claim to teach only senior classes. It is the prerogative of the employer to take a call and decide as to which of the classes have to be assigned to the petitioner and in what manner his services can be best utilised by the Institution, in which he is serving. There is lack of material on record to indicate any malafide, arbitrariness or discrimination in the action of the respondents qua the petitioner. The impugned order is well-reasoned and does not suffer from any illegality or irregularity which may warrant interference by this Court.

For the aforesaid reason, the petition being devoid of merit is dismissed.

24.07.2020

Janki

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No