

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-12802-2014 (O&M)
Date of Decision:-11.02.2020.

Usha Rani

.....Petitioner

Versus

Vedic Girls Senior Secondary School and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. K.K. Gupta, Advocate for the petitioner.

Mr. C.B. Kaushik, Advocate for respondent No.1.

Mr. Ashish Rawal, Advocate for respondent No.2.

SANJAY KUMAR, J. (Oral)

CM-13208-CWP-2019

This application is allowed only to the extent of receiving Annexures P-13 to P-15, filed therewith.

CM-17215-CWP-2019

This application is allowed and the objections, supported by the affidavit filed by the petitioner, are taken on record.

CWP-12802-2014

By way of this writ petition, the petitioner sought a direction to the Director, Public Instructions, Department of School Education, U.T. Chandigarh, the second respondent, to grant approval for her appointment as a Social Science Mistress in the Vedic Girls Senior Secondary School, Manimajra, U.T. Chandigarh, the first respondent (hereinafter, 'the School').

She also sought a direction to pay her salary equivalent to the regular pay scale given to similarly situated School Mistresses working in the School.

The petitioner entered the service of the School as a Teacher, on a consolidated monthly pay, in July, 1994. She was then appointed on the pay-scale of Rs.1640/- plus allowances, vide appointment letter dated 01.07.2003. However, this appointment was also on a temporary basis. While so, in the year 2007, Chandigarh Administration permitted the School to fill up various regular teaching posts. The posts so notified also included one regular post of a Social Science Mistress. The petitioner applied for appointment to this post. Interviews were held for making selections to the notified teaching posts on 19.02.2007 and 20.02.2007. The Director, Public Instructions, Chandigarh Administration, appointed the Principal of the Government Senior Secondary School, Manimajra, as his nominee to participate in the subject selections. The petitioner was duly selected for the post and the School addressed letter dated 20.02.2007 seeking approval of her appointment. However, by letter dated 19.06.2007, the Director, Public Instructions, Chandigarh Administration, informed the School that it had come to his notice that a controversy had arisen during the course of the interviews held on 19.02.2007 and 20.02.2007 for filling up the posts of teaching staff in the School and further, a Court case, viz., **CWP-6295-2007**, regarding closure of the School was also pending consideration. The Director therefore stated that, keeping in view the above circumstances, approval for appointment of the Teachers named thereunder could not be accorded. The petitioner was one of those named thereunder, against the post of Social Science Mistress. Thereafter, the Director, Public Instructions, Chandigarh Administration, addressed letter dated 30.03.2009 to the

petitioner, in response to her letter dated 19.01.2009, stating that **CWP-6295-2007**, regarding closure of the School, was pending consideration and that the case for approval of her appointment as a Social Science Mistress would be decided after finalization of the Court case. The record bears out that **CWP-6295-2007** was disposed of as infructuous on 01.04.2009.

It appears that five more posts of Teachers in the School were notified for recruitment, *vide* public notice dated 09.01.2017. The petitioner applied in response thereto on 08.05.2017. However, by letter dated 06.07.2017, the Director, School Education, Chandigarh Administration, informed her that as her case, the present writ petition, was *sub judice*, further action would be taken as per the orders of the Court with the approval of the Competent Authority. She was accordingly kept out of the selection process undertaken at that point of time. Thereafter, public notice dated 24.08.2019 was issued by the School proposing to fill up a regular post of Social Science Mistress. The petitioner then filed **CM-13208-CWP-2019** in this writ petition seeking to restrain the respondents from making an appointment to the notified post during the pendency of this writ petition. When the said miscellaneous application was taken up for hearing on 18.09.2019, Mr. C.B. Kaushik, learned counsel for the School, informed the Court that the post which had been advertised on 24.08.2019 had nothing to do with the earlier appointment of the petitioner and insofar as the post of the petitioner was concerned, the same was kept vacant pending approval of her appointment by the Director. He further stated that the petitioner's case had already been forwarded to the Chandigarh Administration for approval of her appointment and that a decision was awaited from their end. Taking note of these submissions, this Court directed the Chandigarh

Administration to take a decision upon the recommendation made by the School within a time frame. Thereupon, the Director, School Education, Chandigarh Administration, passed Speaking Order dated 01.11.2019. Therein, he stated that the recommendation made by the School had already been decided, *vide* letter dated 19.06.2007, and that the said decision stood reiterated. According to him, the Department had already declined approval for appointment of the petitioner and three others to the teaching posts in the School, under the letter dated 19.06.2007. The petitioner, thereupon, filed ***CM-17215-CWP-2019***, raising objections to the aforestated Speaking Order dated 01.11.2019.

Though Mr. Ashish Rawal, learned counsel for the Chandigarh Administration, would strenuously contend that the Speaking Order dated 01.11.2019 is perfectly justified and that the request of the School for approval of the petitioner's appointment was rejected as long back as in June, 2007, it may be noted that this stand is contrary to what the Chandigarh Administration stated in its own written statement filed in this writ petition. This written statement was filed on 05.02.2016. Therein, the Director, School Education, Chandigarh Administration, stated that the case of the petitioner for approval of her appointment as a Social Science Mistress would be decided after finalization of ***CWP-6295-2007***. Significantly, the said writ petition had been disposed of as infructuous as long back as on 01.04.2009 itself, but the Director seems to have been blissfully unaware of this fact when he made the aforestated statement in his Reply dated 05.02.2016. More importantly, it was not his case at that point of time that the issue stood closed in June, 2007, itself and that approval had been denied altogether under the letter dated 19.06.2007. Further, there is

no answer forthcoming as to why the petitioner was informed on 30.03.2009 that the case for approval of her appointment as a Social Science Mistress in the School would be decided after finalization of **CWP-6295-2007**. This letter was sent on 30.03.2009 by the Director himself, long after issuance of the letter dated 19.06.2007. To compound the matter further, there is no justification as to why the petitioner's candidature for selection to the post notified in 2017 was rejected on the ground of pendency of this writ petition, if it was a dead issue. The understanding of the School also seems to have been to the effect that the issue was still pending consideration with the Chandigarh Administration and that was the basis for the submission made before this Court on 18.09.2019, referred to *supra*.

On the above analysis, this Court finds that there is no clarity whatsoever on the part of the Chandigarh Administration as to what it wishes to do with the case of the petitioner. In any event, the stand taken by it in the Speaking Order dated 01.11.2019 cannot be countenanced as it is contradicted by the aforestated actions of the Chandigarh Administration itself. The said order seems to have been passed without application of mind merely to pay lip service to the direction of this Court on 18.09.2019. The said Speaking Order is therefore of no effect.

The writ petition is accordingly allowed directing the second respondent herein, viz., the Director, Public Instructions, Department of School Education, Chandigarh, to consider the matter afresh and in its entirety and take a decision on the issue of approval of the appointment of the petitioner to the post of Social Science Mistress in the School pursuant to the selections held in February, 2007. Be it noted that a mere letter from the nominee of the U.T. Administration to the effect that she had some

disagreement with the Principal of the School would be no reason to nullify the selections made, if there is nothing further in proof of any injustice having been done to the candidates who participated in the said selections. In any event, it is for the second respondent to take an informed decision in the matter and communicate the same to the School and also the petitioner. This exercise shall be completed expeditiously and in any event, not later than four weeks from the date of receipt of a certified copy of this order.

No order as to costs.

(SANJAY KUMAR)
JUDGE

February 11, 2020.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.