

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 13648-2014

Date of decision:-07.02.2020

Kapila Devi

.....Petitioner

vs.

State of Haryana and ors.

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. U.K. Agnihotri, Advocate
for the petitioner.

Mr. Randhir Singh, Advocate
for State of Haryana

RITU BAHRI, J.(Oral)

Petitioner is seeking issuance of writ in the nature of certiorari for quashing impugned letter dated 20.06.2014 (P-1) whereby the services of the petitioner have been terminated.

Brief facts of the case are that Government of Haryana had invited applications for the appointment of Guest Teachers in different schools. The petitioner applied for the post of Guest Teacher and ultimately after complete verification of the documents, was appointed as a Guest Teacher (Political Science) in the Government Girls Senior Secondary School, Jatola w.e.f 16.10.2006 (P-2) at a remuneration of Rs.80/- per period, as per the prevailing policy. But vide impugned letter dated 20.06.2014, the services of the petitioner were terminated without giving any opportunity of hearing. The services of the petitioner was terminated on the ground that petitioner along with Rajesh Kumar, Madan Singh, Ranvir Singh, Smt. Kapila Devi, Smt. Suresh Bala and Smt. Babita were appointed

On notice of the petition, a short reply has been filed on behalf of respondent Nos. 1 to 3 taking a stand that Inquiry Officer erroneously combined two merit lists of the year 2005 and 2006. On the basis of these enquiry reports, Rajesh Kumar had been wrongly relieved. Thus, Rajesh Kumar was adjusted in GSSS, Assadpur, Nandnaur (Sonipat). It has been admitted that petitioner along with Kartar Singh worked in the School w.e.f 16.10.2006 to 24.06.2014. It has been submitted that DDO/Principal of GGSSS Jataula (Sonipat) invited applications for one post of Lecturer Political Science in the year 2006. Total four applications were received and petitioner was lower in merit, even then she was engaged by the concerned DDO/Principal. An enquiry qua petitioner was got conducted and as per enquiry report, while engaging petitioner, no procedure was adopted and no merit was followed, therefore, the petitioner was relieved from her duties on 24.06.2014. The disciplinary action has been initiated against Sh. Jagbir Singh, the then DDO/Principal GGSSS, Jataula (Sonipat). The disciplinary action has been initiated on 13.09.2017 who submitted erroneous enquiry reports without verifying the facts.

Thereafter, in compliance of order dated 17.10.2019, an affidavit dated 14.12.2019 has been filed by Joint Director Administration for Director General Secondary Education Haryana, Panchkula stating therein that the applications of Rajinder Singh, Mukesh Kumari and Jaibir along with petitioner were received on 10.10.2006 as per record of GGSSS Jataula (Sonipat). However, the date in the affidavit mentioned as 10.10.2006 inadvertently being a typographical mistake as it should have been 2016.

The DDO/Principal GGSSS Jataula (Sonipat) was charge sheeted under

Rule 8, vide order dated 30.04.2013/15.05.2013. The competent authority filed the matter on 07.09.2018 after taking a lenient view in the matter.

After going through the contents of the writ petition, the services of the petitioner has been terminated only on the ground that four applications were received in the year 2006 and the petitioner who was lower in merit, was wrongly engaged without following the due procedure of law and the appointment was against the departmental Rules.

Today, learned State counsel has produced the original file whereby the applications have been shown to be recieved from Rajinder Singh, Mukesh Kumari and Jaibir along with petitioner on 10.10.2006. A bare perusal of the application forms of Jaibir and Rajender Singh shows that the same had been received on 16/19.12.2005 but the date has been smudged. So, it is factually incorrect that the applications have been recieved on 10.10.2006. Further as per interview, the petitioner has been shown at Sr. no. 3 with 50%, Rajender Singh at No. 1 with 57.50%, Mukesh Kumari at No. 2 with 56.12% and Jaibir at No. 4 with 58%.

However, learned State counsel has shown one register to contend that it was the practice of the college to take applications of the candidates and thereafter, inform them about the vacancy, so that they can apply against the same.

Learned counsel for the petitioner on the other hand has referred to enquiry report dated 04.06.2014 (Annexure PA/1) in which no justifiable reason has been assigned for terminating the service of the petitioner. On 01.12.2015, this Court after going through the above said enquiry report dated 04.06.2014 passed the following order:-

“Enquiry Annexure R1 is totally deficient in content. It does not even remotely address the illegalities or irregularities committed while making appointments as Guest Faculty Teachers as alleged by the respondents on account of which the petitioners who were selected and appointed have been removed from service.”

Thereafter, an affidavit was filed on 06.07.2016 in CWP No. 12899-2014 stating therein that 04 applications were received for the post of Lecturer (Pol Science) but despite the fact that petitioner being lower in merit, was appointed and thus her services were ordered to be terminated. It has further been stated that Rajesh Kumar was engaged as Guest Lecturer (Pol. Science) on 23.11.2006 and Kapila Devi was engaged as Guest Lecturer (Pol. Science) on 16.10.2006. Thereafter, a complaint was received against the appointment of the petitioner and Smt. Jagjeet Kaur was appointed as Inquiry Officer, who submitted her enquiry report dated 04.06.2014 holding the appointment of the petitioner to be against the procedure and the instructions issued from time to time by DSE, Haryana.

Heard learned counsel for the parties at length.

It is not the case of the respondents that petitioner was not eligible for appointment, as he was appointed after adopting due process of law. Further before terminating her services, she has gained the experience of almost 08 years. The petitioner has not misrepresented to the respondent-department. It was the mistake of the interview committee who had selected the petitioner being lower in merit. The experience which the petitioner had gained on the above post, would go to the students, so the petitioner should not have been terminated from her services only on the sole ground that she

was having less marks. Further Jaivir had given in writing that he had joined his duty on 16.01.2006 in a separate school i.e GSSS Jakhuli (PA/5). Rajender Singh also was appointed as Lecturer Pol.Science Guest Faculty on 17.02.2006 in GSSS Bidhlan, District Sonapat (PA/6). Mukesh Kumari also left her interest in her appointment against the aforesaid post for which she had applied on 19.12.2005. Thus, it was only Mukesh Kumari who could challenge the appointment of petitioner but she had not done so till date. The petitioner was appointed by the selection committee on 12.10.2006 and she joined her duties on 16.10.2006. The enquiry was conducted after the petitioner had gained experience of 08 years on the above said post. The petitioner was thus rightly been appointed.

Learned State counsel has further informed the Court that now a regular candidate had joined in the year 2016 on the post of Lecturer (Political Science)

In view of the discussion made above, the present writ petition is allowed and impugned letter dated 20.06.2014 (P-1) is set aside. A direction is given to the respondents to make the payment of salary to the petitioner w.e.f 20.06.2014 till the date the new regular candidate joined the School i.e 2016 . A cost of Rs.50,000/- is also imposed upon the respondent-State, which shall be paid to the petitioner along with arrears of salary.

The file and register in original is returned back to learned State counsel.

07.02.2020
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No