

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

227

CWP No.16778 of 2016
Date of Decision : 27.02.2020

Geeta Sharma

...Petitioner

v/s

State of Haryana and others

...Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Yogesh Sheoran, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

Mr. Rajdeep Singh Cheema, Advocate
for respondent Nos.3 & 4.

Mr. A.S. Virk, Advocate
for respondent No.5.

B.S. Walia, J. (Oral),.

[1] Prayer in the petition under Articles 226/227 of the Constitution of India, is for the issuance of a writ of Mandamus for directing the respondent authority to consider and appoint the petitioner against vacant sanctioned post of Assistant Professor in English in the respondent-College by converting the unsanctioned post of Assistant Professor in English, against which the petitioner has been serving for the past number of years in view of judgments (Annexure's P/1 & P/2).

[2] Brief facts of the case, leading to the filing of the writ petition are that the petitioner was initially appointed as Lecturer in English in DAV

post pursuant to an advertisement through publication in the newspaper after following the procedure for appointment as per rules. Thereafter, appointment of the petitioner was duly approved by the respondent-University i.e. respondent No.5.

[3] Writ petition has been filed on the ground that the petitioner is entitled to conversion of the unsanctioned post on which she is working to aided sanctioned post which became vacant w.e.f. 01.03.2016 on account of retirement of Dr. Sudha Chugh, who was serving on a sanctioned post in the subject of English in DAV College, Yamunanagar. Case of the petitioner is claimed to be squarely covered by the decision of a Division Bench of this Court in *CWP No.17260 of 2007, decided on 11.03.2008* in case titled as '**Smt. Shashi Tejpal** versus **State of Haryana and others**'. Operative part of the said decision is reproduced as under:-

“In our view, a lecturer, who is working for the last more than 14 years on an unaided post, is entitled to seek approval from the State Government so as to receive grants-in-aid for such post. It will be wholly unreasonable if a person, even after more than 14 years of continuous service against the unsanctioned post, is not granted grants-in-aid to the post occupied by her, though the fresh appointment is permitted against the sanctioned post in the same College and by following the same procedure. Therefore, as against the petitioner, the respondent can appoint another person against the sanctioned post, but the petitioner, who has already rendered 14 years of satisfactory service, is not considered fit for approval for granting grants-in-aid by the State Government. The effect of the grants-in-aid is that the petitioner would be entitled to pensionary benefits in terms of the scheme framed by the State Government. No reason has been explained as to why the post occupied by the petitioner, cannot be treated as a sanctioned post

either in communication Annexure P.10 or in the written statement.

Therefore, we are of the opinion that once the procedure for appointment as contemplated under the Statute has been followed, it is only an administrative decision to grant sanction to the post occupied by the petitioner, for the purposes of grants-in-aid. Such interpretation alone would be fair and reasonable keeping in view that the petitioner has worked for more than 14 years against an unsanctioned post.

Consequently, the writ petition is allowed. The impugned order Annexure P.10 is quashed. The respondents are directed to treat the post occupied by the petitioner as the post against which the grants-in-aid is payable.”

[5] Learned counsel contends that in the instant case, proper procedure for selection and appointment of the petitioner on the post of Lecturer in English was followed by the respondent-College and the appointment of the petitioner was also approved by the respondent-University. Post of Lecturer in English is lying vacant in the respondent-College since 01.03.2016 on account of retirement of Dr. Sudha Chugh, who was serving on the sanctioned post meant for English subject in the respondent-College. The work and conduct of the petitioner is satisfactory. Therefore, in the circumstances, there is no reason as to why the claim of the petitioner be not accepted.

[6] Learned counsel for the respondents have not been able to distinguish the judgment relied upon by learned counsel for the petitioners in **Smt. Shashi Tejpal's** case (*supra*) nor have been able to distinguish the factual basis, namely of the petitioner having been appointed after following due procedure for selection and her appointment having been approved by the

University as also of her work and conduct being satisfactory and a post lying vacant since 01.03.2016.

[7] In the circumstances, in the light of the position as noted above, the writ petition is ***allowed***. The respondents are directed to treat the post occupied by the petitioner as the post against which grant-in-aid is payable for which appropriate steps would be taken by the respondent-College for obtaining approval from the competent authority, in accordance with law.

(B.S. Walia)
Judge

February 27, 2020
'Rajneesh'

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