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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-22383-2016 (O&M)
Date of Decision: 13.02.2020

JIWANJOT KAUR

...PETITIONER

VERSUS

STATE OF PUNJAB & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Kapil Kakkar, Advocate
for the petitioner.

Ms. Devaki Anand Sullar, AAG, Punjab.

AUGUSTINE GEORGE MASIH, J. (Oral):

Petitioner has approached this Court praying for issuance of writ of mandamus directing the respondents to consider the claim of the petitioner for appointment to the post of Home Science Mistress, as per her merits in view of the fact that her name figured under the final seniority list and has been placed at Sr. No. 39. Only 33 candidates have been selected out of 34 posts earmarked for the General Category and in any case 29 posts have been filled up as 04 candidates who were placed at sr. No. 1, 9, 16 & 18 were already working as ETT Teacher and thus, they have not joined. Petitioner, therefore, had put forth her claim for the appointment. During the pendency of the writ petition, the petitioner stands appointed on the post of Home Science Mistress vide order dated 21.11.2017. The joining report has been placed on record as Annexure R-1/T.

This fact is not disputed by the learned counsel for the petitioner.

However, he asserts that the petitioner is entitled to the consequential benefits of

the appointment from the date the other batch-mates of the petitioner were appointed who had been selected along with the petitioner maybe not the financial but other notional benefits. In support of the contention, learned counsel for the petitioner has placed reliance on the judgment of the Hon'ble Supreme Court in case of *Union of India Versus K.V.Jankiraman; 1993 SCC (L&S) 387*.

Having considered the submissions made by the learned counsel for the petitioner, this Court is of the view that the petitioner is not entitled to consequential benefits as has been claimed and projected by the learned counsel for the petitioner for the simple reason that no person lower in merit than the petitioner, admittedly, has been appointed to the post of Home Science Mistress prior to the petitioner. The petitioner has been issued appointment letter by the respondents on 21.11.2017, in pursuance to that, she has submitted the joining report which is appended as Annexure R-1/T. It is a settled proposition of law that the candidate, who has been selected, does not have the right for appointment specially when no candidate lower in merits has been appointed. It is true that the petitioner was selected along with the other candidates who have been offered appointment but as is apparent from the facts of the case, out of 34 posts which were meant for the General Category, 33 candidates have already been offered the appointment and the petitioner was not at Sr. No. 35 in the General Category. The petitioner, therefore, did not have a right for being appointed to the post irrespective of the fact that the posts were advertised.

The judgment on which the reliance has been placed by learned counsel for the petitioner in *K.V.Jankiraman's case (Supra)* was a case which relates to promotion of the employee that too during the disciplinary proceedings, it is in this context that the Hon'ble Supreme Court has granted the notional consequential benefits except the financial benefits. The said judgment, therefore, is not applicable to the claim as has been made by the petitioner in the present

case. Admittedly, the petitioner has been granted the pay and other benefits from the date of her appointment which in the considered view of this Court is in accordance with law which do not call for any interference.

In the light of above, the present writ petition is disposed of.

13th February, 2020
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(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether Reportable : *Yes/No*