

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
212

CWP-3346-2016

Date of decision: 09.01.2020

RAMANPREET KAUR

...PETITIONER

V/S

STATE OF PUNJAB & ORS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Harinder Sharma, Advocate,
for the petitioner.

Ms. Anu Pal, DAG, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court with a grievance that the order dated 26.11.2012, which has been endorsed on 21.02.2013 (Annexure P-4), passed by the Director Public Instructions (Secondary Education), Punjab-respondent No. 2 appears to be without application of mind as the claim of the petitioner is covered by the Instructions dated 03.07.2008 (Annexure P-5), whereby under Para-2 of the said Instructions, six months time was given from the date of issue of Instructions as a one time measure for applying for appointment on compassionate ground in all old deserving cases.

It is the contention of the learned counsel for the petitioner that the father of the petitioner, namely, Paramjit Singh Sodhi was working as a

Social Studies Master in the Education Department in Jeevan Mal Government Senior Secondary School, Zira, District Ferozepur. He died on 16.04.1995 in harness leaving behind his widow and two minor daughters. Petitioner is younger of the two and was studying in 4th standard at the time of death of his father. Petitioner could not have applied for appointment on compassionate ground but for the Instructions dated 03.07.2008 (Annexure P-5), whereby the proviso was added below in para 13 (a) of the policy instructions dated 28.12.2005. According to the said proviso, where the deceased Government employee leaves behind his/her minor children, who are studying at the time of death of the employee and are not qualified for an employment in the Government and the spouse is not in a position to join the Government job, a dependent child could apply for compassionate appointment within a period of one year from the date of attaining the age of majority and educational qualifications for Group C and D appointment. As per Para-2 of the said Instructions, as a special one time measure, the benefit of the above proviso was extended to all old deserving cases and the time limit fixed was six months from the date of issuance of the Instructions.

Petitioner, in pursuance to the said Instructions, submitted her application in the office of the District Education Officer (Secondary Education), Ferozepur on 30.07.2008 which was duly forwarded with diary No. 5235. The claim of the petitioner has been rejected by the Director, Public Instructions (Secondary Education), Punjab, on the ground that the application, as has been submitted by the petitioner, should have been submitted by her on attaining the age of 18 years in the year 2004 on the basis of her qualifications whereas she has applied in the year 2008 and, therefore, the application being beyond the period as per the policy decision

is not sustainable. This, the counsel contends, is unsustainable in the light of para-2 of the Policy Instructions dated 03.07.2008 (Annexure P-5). He, thus, contends that the impugned order dated 26.11.2012 (Annexure P-4) passed by the Director Public Instructions (Secondary Education), Punjab-respondent No. 2 deserves to be set aside and the case of the petitioner requires to be considered by the respondents on merits.

Learned counsel for the State, on the other hand, contends that as per the proviso to the Policy Instructions dated 28.12.2005 para 13 (a) thereof, the date on which the petitioner acquired the age of majority with the requisite qualifications should have applied for the post which she did not do as admittedly she had attained the age of majority in the year 2004 and, therefore, could not so apply in the year 2008 which is much beyond the period of one year which has been fixed. She could, at the most, have applied in the year 2005 i.e within a period of one year of having attained the age of majority. The petitioner having failed to submit the application within the time stipulated as per the Policy Instructions dated 03.07.2008, the benefit of the said Policy Instructions cannot be granted to the petitioner. Prayer has, thus, been made for dismissal of the writ petition.

I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the pleadings and the impugned order but do not find myself in agreement with the stand taken by the respondents.

The factum that the petitioner had applied on 30.07.2008 for appointment on compassionate grounds in the office of the District Education Officer (Secondary Education), Ferozepur through proper channel has not been disputed by the respondents as the original records

indicate so, which have been perused by the counsel for the State on instructions and assistance of Sh. Gurmukh Singh, Sr. Assistant, O/o Director of Public Instructions (S.E.), Punjab.

As per the Instructions dated 03.07.2008 (Annexure P-5), the proviso, which has been added to para 13 (a) of the policy instructions dated 28.12.2005, reads as follows:-

“ Provided that in the case where the deceased Government employee leaves behind his/her minor children, who are studying at the time of death of the employee and are not qualified for an employment in the Government and the spouse is not in a position to join the Government Job, a dependent child may be allowed to apply for compassionate appointments by the competent authority within a period of one year from the date of attaining the age and educational qualifications for a Group C or D appointment in Government.”

The Instructions do not end there. Para-2 also of the said Instructions reads as follows:-

“2. On humanitarian considerations, it has also been decided as a special one time measure to extend this benefit to all old deserving cases. In such cases, an application for employment may be made within 6 months from the date of issue of these instructions, if not already made. The Administrative Department should complete the process of giving employment within a period of nine months from the date of issuance of these instructions. No further relaxation shall be allowed under any circumstances.”

A perusal of the above amended Policy Instructions would indicate that the proviso to Para 13 (a) was applicable with effect from the date of issuance of the Instructions i.e. 03.07.2008. That apart, para-2 would be relevant and applicable as far as the petitioner is concerned which, as a special one time measure, keeping in view the humanitarian considerations, extended the benefit of the above proviso to para 13 (a) to all old deserving cases with a further clarification that such claimants could put forth their applications for appointment within a period of six months from the date of issuance of the said Instructions i.e. within six months from 03.07.2008 onwards. Petitioner, admittedly, having submitted the application on 30.07.2008 has exercised her claim as per the Policy Instructions dated 03.07.2008 (Annexure P-5) well within time.

If that be so, the rejection of the claim of the petitioner vide order dated 26.11.2012 (Annexure P-4) by the Director Public Instructions (Secondary Education), Punjab-respondent No. 2 cannot sustain and deserves to be set aside.

In view of the above, the present writ petition is allowed. The impugned order dated 26.11.2012 (Annexure P-4) passed by the Director Public Instructions (Secondary Education), Punjab-respondent No. 2 is, hereby, quashed.

Direction is issued to the Director Public Instructions (Secondary Education), Punjab-respondent No. 2 to consider the claim of the petitioner afresh and pass a speaking order within a period of two months from today.

It goes without saying that if the petitioner is found to be eligible and qualified for appointment to the post of Science Mistress, the

appointment letter be issued to the petitioner within a further period of one month.

January 09, 2020
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No