

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(226) CWP-25562-2018
Date of Decision: October 14, 2020

Amna Rani and others .. Petitioners

Versus

State of Punjab and others .. Respondents

(2) CWP-26109-2018

Gurmukh Singh and others .. Petitioners

Versus

State of Punjab and others .. Respondents

(3) CWP-3123-2019

Meena Rani and others .. Petitioners

Versus

State of Punjab .. Respondent

(4) CWP-5641-2019 (O&M)

Kulveer Kaur and others .. Petitioners

Versus

State of Punjab and others .. Respondents

(5) CWP-7409-2019 (O&M)

Sonam Bala .. Petitioner

Versus

State of Punjab and others .. Respondents

(6) CWP-9517-2019

Shilpa .. Petitioner
Versus

State of Punjab and others .. Respondents

(7) CWP-4908-2019

Silky Sharma .. Petitioner
Versus

State of Punjab and others .. Respondents

(8) CWP-6762-2019 (O&M)

Gurpreet Kaur and others .. Petitioners
Versus

State of Punjab and others .. Respondents

(9) CWP-13976-2020

Manisha .. Petitioner
Versus

State of Punjab and others .. Respondents

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurminder Singh, Sr. Advocate, with
Mr. R.P.S. Bara, Advocate, for the petitioners,
(in CWP No.25562 of 2018).

Mr. Parvesh Saini, Advocate, for the petitioners,
(in CWP Nos.26109 of 2018 and 3123 of 2019).

Mr. Vikas Chatrath, Advocate, and
Ms. Mandeep Kaur, Advocate, for the petitioners
(in CWP Nos.5641,7409, 9517, 6762 of 2019 and
13976 of 2020).

Mr. Jimmy Singla, Advocate,
for the petitioners in CWP-4908-2019

Mr. T.P.S. Chawla, Deputy Advocate General, Punjab.

Mr. Peeush Gagneja, Advocate, for respondent No.4.

HARSIMRAN SINGH SETHI, J.(ORAL)

CM-5007-CWP-2020 in CWP-6762-2019

Present application has been filed to place on record the true translated copy of Annexure P-16.

Keeping in view the facts mentioned in the application, the same is allowed and Annexure P-16 is permitted to be taken on record.

CWP-25562-2018 and other connected cases

By this common order, 9 writ petitions are being disposed of, details of which have been given in the heading of the order, as these petitions involve the similar facts and same question of law.

In this bunch of petitions, the grievance of the petitioners is that they were duly selected as Elementary Trained Teachers and are already working for the last more than four years and the respondents-State had issued the notices to the petitioners proposing to terminate their services on the ground that the merit-list in respect of the selection, in pursuance of which the petitioners were selected and appointed, has been revised and keeping in view the said revision of the merit list, petitioners have gone out of the zone of selected candidates keeping in view the number of posts advertised and therefore, they cannot continue in service and their services are liable to be terminated. These notices, which have been issued to the petitioners, proposing termination of their service, have been impugned in these petitions.

On the last date of hearing, the following order was passed:-

“Learned counsel for the respondent-State submits that though, 2300 posts have been advertised now to be filled up in the cadre in which the petitioners are already discharging the duties but he needs some time to seek instructions as to

whether, around 200 petitioners, who are before this Court, and have already rendered service for more than four years, can be accommodated against the vacancies which have been advertised now. The respondents are requested to consider the case of petitioners sympathetically so as to end the litigation as admittedly the respondents require the manpower to execute the work of the posts in the cadre, in which the petitioners are working as large number of posts have been advertised now and in case there is no serious impediment in adjusting the petitioners, an appropriate decision be taken by the respondents in this regard and the same be placed before this Court, before the next date of hearing.

Adjourned to 14.10.2020.

A photocopy of this order be placed on the files of other connected cases.”

In pursuance to the said order, the State has filed an affidavit wherein, the State has agreed that the petitioners will be adjusted against the posts which are available with the department but subject to three conditions, which have been detailed in the affidavit. The affidavit dated 29.09.2020 is as under:

“ 1. That the present case earlier came up for hearing before this Hon'ble Court on 19.8.2020 and is now fixed for 14.10.2020. This Hon'ble Court vide order dated 19.08.2020 has directed as under:-

“ Learned counsel for the respondent-State submits that though, 2300 posts have been advertised now to be filled up in the cadre in which the petitioners are already discharging the duties but he needs some time to seek instructions as to whether, around 200 petitioners, who are before this Court, and have already rendered service for more than four years, can be accommodated against the vacancies which have been

advertised now. The respondents are requested to consider the case of petitioners sympathetically so as to end the litigation as admittedly the respondents require the manpower to execute the work of the posts in the cadre, in which the petitioners are working as large number of posts have been advertised now and in case there is no serious impediment in adjusting the petitioners, an appropriate decision be taken by the respondents in this regard and the same be placed before this Court, before the next date of hearing.

Adjourned to 14.10.2020.

A photocopy of this order be placed on the files of other connected cases.”

2. That in compliance of the above orders of Hon'ble Court, the claim of petitioners considered. It is further submitted that the petitioners of this bunch of petitions either belongs to General Category or Backward Class Category who could not make a place in the revise selection list, prepared by the department in compliance of order dated 03.4.2017 passed by this Hon'ble Court in bunch of petitions including CWP No.315 of 2016 titled as Parminder Kaur Versus State of Punjab.

3. That the department has taken policy decision to adjust these petitioners in service in compliance of above orders of the Hon'ble Court with the following conditions:-

(i) The department agree to adjust these candidates against the posts advertised by the department which are yet to be filled up with the condition that only the new pay scales as per the Department of Finance, Punjab instructions dated 17.7.2020 will be applicable to them.

(ii) Fresh appointment letters will be issued to the petitioners of this bunch of petitions who are already in service and could not be placed in revised list only if they accepts the pay scales issued/to be issued by the Department of Finance, Punjab in pursuance/continuation of their letter dated

17.7.2020. The candidates concerned will have to give an undertaking in this regard.

(iii) This shall not become a precedent for any other recruitment or similar cases.

Therefore, in view of the position explained above, it is respectfully prayed that the present writ petition may kindly be dismissed in the interest of justice.”

Learned Senior counsel appearing on behalf of the petitioners submits that though the petitioners are grateful for their adjustment as proposed by the department in their affidavit and the conditions mentioned in the said affidavit are acceptable to the petitioners, but argues that petitioners apprehend that the conditions stated in the affidavit might be misinterpreted by the respondents at a later stage, so as to deny the petitioner certain benefits during their service career.

The argument being raised by learned Senior counsel is only an apprehension at this stage as consequential action to the proposal as submitted in the affidavit reproduced is yet to be taken by the respondent-State as acceptance by the petitioners of the said proposal was being awaited by the respondent-State. As no action causing prejudice to the petitioners is taken so far by the State, apprehension raised by the learned Senior counsel is without any basis at this stage.

This Court is of the view that once the Government has shown magnanimity in adjusting the petitioners, the same should also be accepted by the petitioners without raising any apprehension. In case, at any given point of time at a later stage, the petitioners feel that any of the clauses of the conditions are not being correctly interpreted by the Government so as to deny them any benefit for which they are entitled for under the law, the petitioners will be free to raise the said grievance before the Government

and the Government will decide the same by passing an appropriate order, in accordance with law.

Learned counsel appearing on behalf of the petitioners further submits that 73 posts out of the total posts advertised, in pursuance to which the petitioners are selected, are still lying vacant and at least 73 candidates on the basis of the merit can be adjusted against those 73 vacant posts. Learned counsel for the petitioners further submits that they be given liberty to approach the respondents raising this grievance also before the Government.

Learned counsel for the respondents submits that in case, the petitioners have any other grievance as well apart from the grievance stated hereinbefore and the same is raised by the petitioners before the authorities concerned, the same will be examined and the appropriate orders will be passed on the said grievance also expeditiously, as and when raised.

Keeping in view the above, the present petitions are disposed of with a direction to the respondents that the respondents will take appropriate consequential action in pursuance to the affidavit dated 29.09.2020 as the petitioners have accepted the proposal raised in the said affidavit and pass appropriate orders within a period of three months from the receipt of copy of this order.

Once, the respondents have decided to allow the petitioners to continue, the services of the petitioners will not be terminated on the ground that their selection was beyond the vacancies advertised and the interim order will continue to operate till the appropriate orders are passed by the respondents.

As the main writ petitions are disposed of, pending applications
i.e. CM-5008-CWP-2020 & CM-8314-CWP-2020 in CWP-6762-2019 and
CM-6793-CWP-2020 in CWP-5641-2019, are also disposed of.

October 14, 2020
harsha/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

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