

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112)

CWP No. 12602 of 2021

Date of Decision : 14.07.2021

Bas Kaur

...Petitioner

Versus

Ch. Charan Singh Haryana Agricultural University, Hisar and another

...Respondents

(through video conferencing)

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. Vikram Sheoran, Advocate for the petitioner.

Mr. B.S. Walia, Advocate for the respondents.

Harsimran Singh Sethi J. (Oral)

The present writ petition has been filed seeking quashing of the impugned order dated 24.03.2021 (Annexure P-24) by which the prayer of the petitioner for the grant of appointment with effect from the date she was called for interview i.e. 02.07.2013, has been rejected.

As per the pleaded facts, the respondent-University advertised post of Assistant Professors in various subjects. One post of Assistant Professor (Sociology) was also advertised vide Advertisement No. 1 of 2012 and the petitioner applied against the same. In pursuance to her application, petitioner was called for interview on 02.07.2013, but same was not conducted due to the poor response and the authorities found that as

there was only one applicant, who applied for the post of Assistant Professor (Sociology), so the respondents decided to not go ahead with the interview and the further selection process for the said post and to re-advertise the same.

The post of Assistant Professor (Sociology) was again advertised by the respondents, which action was challenged by the petitioner by filing CWP No. 19971 of 2013 on the ground that she has already applied against the said post and was the lone candidate in the year 2012 and in similar situation, the post of Assistant Professors in various other subjects, where there were single candidates available, were filled up by the respondent-University, hence the petitioner alone is entitled to be considered for the said post of Assistant Professor (Sociology). The said writ petition being CWP No. 19971 of 2013 ultimately came to be decided by this Court on 07.03.2019 (Annexure P-21) wherein, a direction was issued to the respondent-University to interview the petitioner for the post of Assistant Professor (Sociology) and in case, she is found meritorious and fit, the respondents were directed to proceed further in accordance with law.

As per the averments made, the petitioner was considered by the respondents for the post of Assistant Professor (Sociology) in terms of the order passed by this Court and ultimately, she was interviewed and was found meritorious & fit and was selected and ultimately appointed vide order dated 27.05.2019 (Annexure P-22). The petitioner is continuously working on the said post as of now.

As the petitioner was appointed on 27.05.2019, she approached this Court again by filing CWP No. 22117 of 2020 with a prayer that she

should be appointed retrospectively from the date when she was called for interview i.e. on 02.07.2013, as the other posts, which were advertised with the post of Assistant Professor (Sociology) vide Advertisement No. 1/2012 were filled up in the year 2013 and, therefore, the petitioner is also entitled for retrospective appointment as Assistant Professor (Sociology). This Court disposed of the writ petition vide order dated 21.12.2020 (Annexure P-23) directing the respondents to consider the plea of the petitioner with regard to the said claim by passing an appropriate speaking order on the representation submitted by her. Now, the respondents have considered the claim of the petitioner for retrospective appointment as Assistant Professor (Sociology) from the year 2013 and have rejected the said claim vide order dated 24.03.2021 (Annexure P-24), which has been impugned by the petitioner in the present writ petition.

The argument of learned counsel for the petitioner is that once, the posts which were advertised vide Advertisement No. 1 of 2012 in various subjects, in pursuance to which the appointments were made in the year 2013 and now as the petitioner has also been appointed on the post of Assistant Professor (Sociology), which post was also advertised by the same Advertisement, the petitioner is also entitled for retrospective appointment with effect from when petitioner was called for interview i.e. 02.07.2013.

Appointments and promotions are to be effected as per the rules and regulations governing the service and unless and until any rule or regulation envisages, direct appointment with retrospective effect, the same cannot be given to an employee. Learned counsel for the petitioner has not been able to produce any rules or regulations, which envisages and supports

the claim of the petitioner that she is entitled for direct appointment with retrospective effect i.e. from the date when she was called for the interview on 02.07.2013. Not only this, it is a settled principle of law that even the selection does not confer any right upon a selected candidate to seek appointment as it is the sole discretion of the employer. In the present case, the petitioner was not even a selected candidate on the date from which she is seeking appointment. Though, she was called for interview on 02.07.2013, she was never interviewed and selection process was cancelled. Under these circumstances, once, the petitioner was not even a selected candidate as on 02.07.2013, claiming appointment from the said date is beyond the settled legal principles and hence, cannot be accepted.

Learned counsel for the petitioner submits that the appointment to the post of Assistant Professors in various subjects, which were advertised vide Advertisement No. 1 of 2012 were made in the year 2013 and the petitioner was denied her right of consideration at the said time, for which the petitioner cannot be faulted with and, therefore, she is entitled for the grant of appointment with retrospective effect. It is a conceded position that though, the petitioner was called for interview but was not interviewed and no further process was undertaken by the respondent-University on the ground that there were not enough candidates for consideration to fill up the post of Assistant Professor (Sociology). Even for considering the claim of the petitioner for appointment against the said post, while passing an order in CWP No. 19971 of 2013, this Court only gave a direction to the respondents that in case the petitioner is found fit and meritorious, the respondents may then proceed in accordance with law. The word 'in

accordance with law', has to be interpreted to see whether, a direct appointment can be with retrospective effect. Non grant of retrospective appointment has not caused any prejudice to the petitioner as no one junior to the petitioner in the cadre of Assistant Professor (Sociology) has been appointed in the year 2013. Once, it is admitted that there was only one post of Assistant Professor (Sociology) advertised vide Advertisement No. 1 of 2012 and against the said post, the petitioner has already been given appointment vide order dated 27.05.2019 (Annexure P-22) after being interviewed in 2019, in the absence of any settled principle of law or rules and regulations governing the service, merely on the ground that the petitioner was called for interview for the said post in the year 2013, she cannot be given appointment from the said date.

The claim of the petitioner on the ground of parity with other appointees of the post of Assistant Professor in various other subjects is also misplaced. In those cases, the posts advertised in different subjects have no co-relation with the post of Assistant Professor (Sociology). It is not the case that the seniority of all the post of Assistant Professors is combined and the petitioner will suffer any prejudice in case, she is not given retrospective appointment. In those cases eligible candidates were interviewed and selected candidates were appointed, which is not the case in hand. Petitioner was never interviewed in the year 2013 though, was called for the same. Process of selection was re-initiated only after the order passed by this Court in the year 2019 and appointment has been given as per the direction given by this Court and admittedly, there is no direction to appoint the petitioner from a retrospective date.

That being so, the claim of the petitioner for the grant of retrospective appointment, in the absence of any rule governing the service to the said effect or direction by this Court in pursuance to which the claim of the petitioner was considered, cannot be accepted and no interference is called for in the impugned order by which the prayer of the petitioner has been rejected.

Consequently, the writ petition is dismissed.

July 14, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No