

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

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**CWP No.12281 of 2021
Decided on : 09.07.2021**

Dharmender and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. L.S. Sidhu, Advocate for the petitioners.

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The petitioners in the present writ petition filed under Article 226 of the Constitution of India seek quashing of the order dated 09.02.2021 (Annexure P-8) passed by District Elementary Education Officer, Yamuna Nagar whereby compliance has been made of the orders of respondent No.2 wherein directions have been issued to dispense with the services of the concerned Art & Craft Teachers, who were selected in pursuance of Advertisement No.6/2006 category no.22, whose result had been declared on 25.03.2010.

It has been noticed by the said officer that some of the persons might have been promoted to the post of TGT Art Masters and necessary steps will be taken regarding dispensing with their services by the competent authority at head quarter level.

Resultantly, the services of the Art & Craft Teachers had been dispensed with immediate effect by noting that selection was quashed in

CWP No.18482 of 2010 '**Suman Kumari Vs. State of Haryana & others**' decided on 20.02.2015. It has further been noticed that thereafter appeal filed against the said order bearing **LPA No.359 of 2015 'Vinod Kumar and others Vs. State of Haryana and others'** was dismissed on 10.11.2020 (Annexure P-7).

Resultantly, the Division Bench has held that the change in criteria midway had been done and, therefore, situation was identical as in the case of Physical Training Instructors (PTIs). Reliance was thus placed upon the judgment of the Apex Court passed in **Civil Appeal No.2103 of 2020 'Ramjit Singh Kardam and others Vs. Sanjeev Kumar and others'** decided on 08.04.2020 (Annexure P-6) wherein also the judgment of the Division Bench dated 30.09.2013 (Annexure P-3) affirming the judgment of the Single Judge dated 11.09.2012 (Annexure P-2) had been upheld. Thus, the selection to the post of PTIs was also set aside.

The Division Bench on 10.11.2020 also categorically rejected the prayer to permit the selected candidates to work till the fresh selections are made in terms of the judgment of learned Single Judge. Relevant portion of the Division Bench judgment reads as under:-

“39. One last prayer which is made that in case this Court dismiss the appeals, it should at least permit the selected candidates to work till the fresh selections are made in terms of the judgment of the learned Single Judge. This precise contention was considered by the Supreme Court in Ramjit Singh Kardam’s case in para No.74 (supra) and Their Lordships were pleased to reject it. In the circumstances, this plea is also rejected.”

Reliance can also be placed upon the reasoning given in the judgment of the Apex Court in the case of PTIs selection **Ramjit Singh Kardam's case (supra)**, which reads as under:-

“74. We may also notice one more submission of the learned counsel for the appellant. Learned counsel for the appellant submits that in pursuance of selection dated 10.04.2010, the appellants were appointed and they have now continued for more than nine years and at this juncture, it is not equitable to throw out them from their posts. In the present case, result of the selection dated 10.04.2010 was published on 11.04.2010 and the writ petitions were filed in May, 2010 itself, i.e., immediately. Selection was set aside by learned Single Judge on 11.09.2012. The continuance of the appellants is only by way of interim order. This Court has also passed an order on 29.11.2013 for maintaining status quo, which order has been continued till this date. When the continuance of a person on a post is by virtue of an interim order, the continuance is always subject to outcome of the litigation. The displacement of appellants from their posts is inevitable consequence of upholding of the judgment of the High Court. A Constitution Bench of this Court in C. Channabasavaih Etc. Etc. Vs. State of Mysore and Others, AIR 1965 SC 1293 has made following observations in paragraph 9 in such a situation, which is beneficial to record, is as follows:-

“9. It is very unfortunate that these persons should be uprooted after they had been appointed but if equality and equal protection before the law have any meaning and if our public institutions are to inspire that confidence which is expected of them we would be failing in our duty if we did not, even at the cost of considerable inconvenience to Government and the selected candidates do the right thing.....

Similarly, the benefit as such that since selected teachers had

worked on the said posts they were protected from refund of their salary and other benefits received by them. The impugned order is, thus, only an order, which is implementing the dispensing of the services in pursuance of the litigation which has been finalized upto the Apex Court. It is not disputed that the order of the Division Bench in the present set of litigation has been upheld by the Apex Court by dismissing the SLP in limine on 14.12.2020.

Senior Counsel is fair enough to submit that review petition filed against the same had also been dismissed.

The prayer as such to continue the petitioners in service till the regular candidates join duty is not liable to allowed, in view of the above facts, once it has been found that selection process was illegal. Accordingly, no illegality is found in the impugned order.

Accordingly, finding no merit in the present writ petition, the same is dismissed in limine.

July 09, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No