

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.21160 of 2020 (O&M)
Date of Decision:16.03.2021

Kavita Kumari

.....Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. N.K.Chhokar, Advocate
for the petitioner.

Mr. Nikhil Chopra, Addl.AG., Punjab.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner has filed this writ petition for quashing of final selection list dated 15.10.2014, Annexure P-10, in respect to the post of Head Master/Head Mistress, advertised in July 2013.

Respondent no.3, had issued an advertisement, Annexure P-1, in July 2013, seeking inviting applications for 264 posts of Head Master/Head Mistress on contract basis. Petitioner submitted her application for selection to the said post. Merit list was uploaded on 02.12.2013 and the petitioner was reflected at Sr. No. 323. Scrutiny of documents was scheduled for 17.12.2013. Various objections qua petitioner's candidature were raised including the objection that experience certificate of the petitioner was countersigned by the competent District Education Officer (DEO) after

27.11.2013, which was in contravention of the conditions of advertisement. Petitioner submitted her TGT experience certificate issued on 12.03.2014 which was supposed to be a rectification of earlier experience certificate wherein PRT was stated to be wrongly mentioned in place of TGT. As the petitioner was not having TGT experience certificate duly countersigned by the DEO on the relevant date, she did not figure in the final selection list issued on 15.10.2014, Annexure P-10.

Some of the candidates, who had participated in the selection process filed CWP No. 23026 of 2014 titled as Amit Kataria and others Vs. State of Punjab and others, which was dismissed as premature on 12.11.2014. CWP No. 23575 of 2015, titled as Amit Kataria and others Vs. State of Punjab and others, was allowed on 10.01.2020, Annexure P-11. Petitioners therein had challenged appointment of some of the candidates (including respondents no.4 and 5 in the present writ petition) on the ground that they did not possess the requisite experience certificate duly countersigned by the DEO, Secondary Education, prior to 27.11.2013, which was the extended last date of submission of application forms for the post of Head Master/ Head Mistress, as per the terms of advertisement issued in the month of July 2013. The said writ petition was allowed while observing that selection of those candidates who were not in possession of experience certificate duly countersigned by the concerned DEO, Secondary Education, prior to the last date of submission of the applications forms i.e. 27.11.2013, was illegal. It was directed that claim of the petitioners therein along with other eligible candidates as per the merit list which is to be recast by excluding the candidates who do not possess the experience certificate duly countersigned prior to the last date of submission of the applications i.e. 27.11.2013, be considered and appointment letters be issued to them.

Present petitioner who admittedly did not have the requisite certificate duly countersigned as on the relevant date has now filed this writ petition challenging the final selection list. Apart from the fact that selection of the candidates who were appointed but did not possess requisite certificate has been set aside by the Coordinate Bench, this writ petition is liable to be dismissed for the reason that the petitioner had been conveniently being sitting on the sidelines since rejection of the candidature in the year 2014. Learned counsel for the petitioner does not deny that petitioner had not raised any objection to rejection of her candidature in 2014. Petitioner did not file any representation or writ petition or take any steps to challenge the said rejection. Present writ petition has now been filed after passing of order dated 10.01.2020 in CWP No. 23575 of 2015. Learned counsel for the petitioner submits that though selection of similarly situated persons as the petitioner has been set aside, in case Letter Patents Appeal preferred by the selected candidates against order dated 10.01.2020 succeeds, the petitioner would also have a right to stake her claim.

In my considered opinion, there is no merit in the said argument. It is not open to a litigant to sit on the sidelines and simply observe the course of litigation initiated by other persons and thereafter try to ride the wave at a later stage. Reference in this regard can gainfully be made to the decision of the Hon'ble Supreme Court in **State of Uttar Pradesh and Ors. Vs. Arvind Kumar Srivastava and others, 2015(1) SCC 347**, wherein it is observed as under:-

“23. The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons

need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of [Article 14](#) of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

In the abovesaid case, challenge to cancellation of appointment orders after a period of nine years, subsequent to some similarly situated persons being granted the relief, was not entertained. Hon’ble Supreme Court observed that unexplained delay and laches in itself would be ground to discard such a persons claim. In the present case also, the petitioner chose to sit on the sidelines since 2014, having accepted rejection of her candidature. It is indeed farfetched that in case the candidates whose selection has been set aside (including respondents no.4 and 5) are successful, in their challenge to decision dated 10.01.2020 in CWP No. 23575 of 2015, the petitioner shall be vested with a right to stake her claim too. Such argument is rejected being misconceived and devoid of any merit.

No other argument has been raised.

Accordingly, present writ petition being devoid of any merit, is
dismissed with no order as to cost.

16.03.2021
s.khan

[LISA GILL]
Judge

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