

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.6311 of 2022 (O&M)

Date of Decision:28.03.2022

Narender Kumar and another

.....Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Meghna Nehra, Advocate
for Mr. Sunil K. Nehra, Advocate
for the petitioners.

Mr. Harish Nain, AAG., Haryana.

LISA GILL, J(Oral).

Prayer in this writ petition is for a direction to the respondents to re-appoint the petitioners on the post of JBT (Guest Teacher) and SS Master (Guest Teacher).

It is submitted that the petitioners were initially working as Guest Teachers in their respective villages from the year 2006 to 2010. Pursuant to Advertisement no.6 of 2006 issued by the Haryana Staff Selection Commission, inviting applications for the post of PTI (Physical Training Instructors), petitioners applied for the same and they were selected. However, their selection was challenged and admittedly set aside in CWP no. 15656 of 2010, titled as 'Sanjeev Kumar and others vs. State of Haryana and others' and other connected writ petitions by a Coordinate Bench of this High Court on 11.09.2012. Same was upheld in LPA-1555-2012, titled 'Vijay Kumar and others Vs. Sanjeev Kumar and others', decided on 30.09.2013. The Hon'ble Supreme Court in **Civil Appeal 2103**

of 2020, titled '**Ramjit Singh Kardam and others Vs. Sanjeev Kumar and others**', upheld the setting aside of selection of PTIs on 08.04.2020.

Petitioners were relieved as per the decision of the Hon'ble Supreme Court.

It is submitted that the petitioners are now entitled to reappointment to the post of Guest Teachers especially on account of their vast experience.

Petitioners, it is submitted have filed representations to this effect, but to no avail.

Learned counsel for the petitioner has emphasized that Guest Teachers, who were employed with the petitioners are still continuing in service as their services have been protected by the State Government in view of the promulgation of the Haryana Guest Teachers Service Act, 2019. Therefore, it is prayed that the present writ petition should be allowed.

Though, notice of motion has not been issued but as advance copy of the petition has been supplied to the State, learned counsel for the state has appeared and opposed this writ petition. Learned counsel for the State submits that selection of the petitioners in this writ petition has been admittedly set aside by the Single Bench and upheld up to the Hon'ble Supreme Court. Therefore, these writ petitions should be dismissed.

Having heard learned counsel, at length, I do not find any ground for issuance of a writ in the nature of Mandamus to the respondents to re-appoint the petitioners on the post of JBT (Guest Teacher) and SS Master (Guest Teacher), as sought and prayed for. It is a matter of record that the petitioners' selection to the post of PTI (Physical Training Instructors), was set aside. The Hon'ble Supreme Court in **Ramjit's** case while dealing with the contention regarding inequity in divesting the selected candidates of their posts observed 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.....”

Following directions were issued in *Ramjit's* case:-

- (i) *The Commission shall conclude the entire selection process initiated by the advertisement No.6 of 2006 as per criterion notified on 28.12.2006 i.e. holding objective type written test of 200 marks and viva voce of*

25 marks. All the applicants who had submitted applications in response to the above advertisement including those who were selected shall be permitted to participate in the fresh selection as directed.

(ii) The candidates who have been selected and have worked on the post of PTI shall not be asked to refund any of the salary and other benefits received by them as against their working on the posts. No refund shall also be asked from those candidates who after their selection worked and retired from service.

(iii) The entire process be completed by the Commission within a period of five months from the date Commission starts working after the present lockdown is over, which was the time fixed by the learned Single Judge for completing the process.

(iv) The costs imposed by the Division Bench in paragraph 54 of the judgment of the High Court are deleted except the costs imposed on the Commission.”

The only benefit extended was that refund of salary or other benefits received was not to be sought from the selected candidates. Learned counsel for the petitioners is unable to point out any vested right which the petitioners have, for seeking a direction for reappointment as Guest Teachers. Therefore, I do not find any ground whatsoever to interfere in this writ petition.

No other argument has been raised.

Writ petition is accordingly dismissed with no order as to costs. Needless to say, it is open to the petitioners to approach the respondents for consideration of their representations for appointment as Guest Teachers in accordance with law.

[LISA GILL]
Judge

28.03.2022
s.khan

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