

CWP No. 22528 of 2021 and other connected cases

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 102)**

(1)

CWP No. 22528 of 2021

Date of Decision : 29.08.2022

Vikas Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(2)

CWP No. 16845 of 2021

Neetu Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

(3)

CWP No. 17441 of 2021

Minakshu Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(4)

CWP No. 17492 of 2021

Jaibir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

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(5) CWP No. 17514 of 2021

Monika Kamra

...Petitioner

Versus

State of Haryana and others

...Respondents

(6) CWP No. 17543 of 2021

Harish Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(7) CWP No. 17569 of 2021

Ranjana Kumari and another

...Petitioners

Versus

State of Haryana and others

...Respondents

(8) CWP No. 17585 of 2021

Anita Rani

...Petitioner

Versus

State of Haryana and others

...Respondents

(9) CWP No. 17588 of 2021

Savita

...Petitioner

Versus

State of Haryana and others

...Respondents

(10)

CWP No. 17781 of 2021

Ajay and others

...Petitioners

Versus

State of Haryana and others

...Respondents

(11)

CWP No. 17783 of 2021

Amit Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

(12)

CWP No. 17809 of 2021

Indira Sindhu

...Petitioner

Versus

State of Haryana and others

...Respondents

(13)

CWP No. 19639 of 2021

Satyawan Singh alias Satyawan

...Petitioner

Versus

State of Haryana and others

...Respondents

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(14) CWP No. 20171 of 2021

Kuldeep Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

(15) CWP No. 20343 of 2021

Harish Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(16) CWP No. 14266 of 2021(O&M)

Pawan Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

(17) CWP No. 17471 of 2021(O&M)

Ashok Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(18) CWP No. 17812 of 2021(O&M)

Neelam Gill and others

...Petitioners

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Versus

State of Haryana and others

...Respondents

(19)

CWP No. 17527 of 2021(O&M)

Jasbir Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

(20)

CWP No. 18611 of 2021(O&M)

Neelam Arora and others

...Petitioners

Versus

State of Haryana and others

...Respondents

(21)

CWP No. 17604 of 2021(O&M)

Sanjay Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

(22)

CWP No. 20025 of 2021(O&M)

Rajesh Kantiwal

...Petitioner

Versus

State of Haryana and others

...Respondents

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(23)

CWP No. 26177 of 2019(O&M)

Sanjay Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

(24)

CWP-5999-2019 (O&M)

Parveen

...Petitioner

Versus

State of Haryana and others

...Respondents

(25)

CWP-17573-2022

Vikas Mareheta

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikram Sheoran, Advocate for the petitioner(s)
in CWP Nos. 22528, 16845, 17441, 17492, 17514, 17543 and
17585 of 2021 and CWP No. 17573 of 2022.

Mr. Ranjit Singh Kalra, Advocate for the petitioner(s)
in CWP No. 17569 of 2021.

Ms. Anu Garg, Advocate for
Mr. V.P. Sangwan, Advocate for the petitioner(s)
in CWP No. 17588 of 2021.

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Mr. Anurag Goyal, Advocate for the petitioner(s) in
CWP Nos. 17781 and 17783 of 2021.

Mr. Sajjan Singh, Advocate for the petitioner(s)
in CWP Nos. 17809 of 2021 and 5999 of 2019.

Mr. Suresh Kumar Kaushik, Advocate for the petitioner(s)
in CWP No. 19639 of 2021.

Mr. Gourav Goel, Advocate for the petitioner(s)
in CWP No. 20171 of 2021.

Mr. R.S. Dadwal, Advocate for
Mr. Sandeep Siwatch, Advocate for the petitioner(s)
in CWP No. 20343 of 2021.

Mr. Jasbir Mor, Advocate for the petitioner(s)
in CWP Nos. 14266, 17471, 17812, 17527, 18611, 17604,
20025 and 26177 of 2021.

Harsimran Singh Sethi J. (Oral)

By this common order, the writ petitions, details of which have been given above, are being disposed of as all the writ petitions involve the same question of law on similar facts.

The grievance of the petitioners in the present writ petitions is that the petitioners had competed in pursuance to the Advertisement No. 1 of 2012 for appointment to the post of Post Graduate Teacher, which was advertised by the respondents for various subjects. The petitioners competed along with all the other candidates and cleared the written test and thereafter, were called for interview. After undergoing the process of interview, the respondents issued the result of the selection process on 03.04.2013, wherein, the petitioners had secured enough marks to be selected against the post advertised in the respective cadre for which they competed. Thereafter, the candidates were called for verification of the

documents and at the said stage, the respondents found that the degrees, which the petitioners were holding, were not in accordance with the rules governing the service and, therefore, the petitioners were declared ineligible on the ground that either the degrees, which they presented against fulfilment of eligibility criteria, were from an institute, which was not recognized or the said degrees were obtained from the institution by channel of distance education and same cannot be taken into account as a valid degree for considering the petitioners eligible to be appointed as Post Graduate Teachers.

The said action of the respondents was challenged by certain candidates, who were similarly situated as the petitioners in the present petition by filing CWP No. 7626 of 2015 titled as ***Gurmail Kaur and others Vs. State of Haryana and another*** and other connected cases, which petitions came up for hearing before a Co-ordinate Bench on 27.05.2015 and the claim of the similarly situated candidates was allowed that their degrees are to be treated as valid degrees for the purpose of recruitment and a direction was given to grant the petitioners in those petitions, an appointment in accordance with the merit which they have secured in the competitive examination.

The said judgment was assailed by the Government of Haryana by filing various LPAs. One LPA bearing LPA No. 1215 of 2015 along with the connected appeals, came up for hearing before the Division Bench on 19.08.2019 on which date, the State requested for withdrawing of the appeals with liberty to file a Review Petition. The said prayer was allowed by the Division Bench on 19.08.2019.

It may be noticed that in the LPA, there was an interim stay granted by the Division Bench with regard to the implementation of the order of the Co-ordinate Bench passed in CWP No. 7626 of 2015 and other connected cases. After withdrawing the said LPA, the State availed the remedy of review before the learned Single Judge and the said review also came to be dismissed on 08.01.2021 after which date, the State again availed the remedy of an appeal by way of LPA No. 171 of 2021, which was dismissed on 22.03.2021. The said order has been impugned by the State by filing Special Leave to Appeal (C) No. 17134 of 2021 in which notice of motion has been issued by the Hon'ble Supreme Court of India but there is no interim order in favour of the State as of now.

Learned counsel for the petitioners argue that once the claim of the petitioners is same as claimed in ***Gurmail Kaur's case (supra)***, the petitioners are also entitled for the same benefit as extended by the Co-ordinate Bench of this Court while passing order in ***Gurmail Kaur's case (supra)*** on 27.05.2015, subject to the outcome of Special Leave to Appeal pending before the Hon'ble Supreme Court of India. Learned counsel for the petitioners undertake that whatever the order of the Hon'ble Supreme Court of India will be passed in Special Leave to Appeal (C) No. 17134 of 2021, the petitioners will be governed by the same.

Learned State counsel, on the other hand, submits that in some what similar case, the Division Bench has already passed an order in LPA No. 19 of 2021, wherein, CWP No. 15843 of 2018, which was also decided in terms of ***Gurmail Kaur's case (supra)***, has been stayed. Learned State counsel relies upon the order passed in LPA No. 19 of 2021 dated

26.02.2021. Learned State counsel submits that keeping in view the said order, the present petitions may kindly be adjourned. Learned State counsel further submits that as LPA No. 171 of 2021 was dismissed as not maintainable, hence the petitioners' claim in terms of the judgment in ***Gurmail Kaur's case (supra)*** may kindly not be allowed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only question, which arises is that whether, the petitioners be extended the benefit as extended to similarly situated candidates by the Co-ordinate Bench while passing order in ***Gurmail Kaur's case (supra)***. It is not a disputed fact that the petitioners are similarly situated as the petitioners in ***Gurmail Kaur's case (supra)***. The only objection of the State as of now is that the matter is pending adjudication before the Hon'ble Supreme Court of India and in case, the State succeeds before the Hon'ble Supreme Court of India and this Court allows the prayer of the petitioners in terms of ***Gurmail Kaur's case (supra)***, they will have to avail the remedy of appeal by initiating appropriate legal proceedings. The said prejudice of the respondent-State can be taken care of as, the learned counsel for the petitioners have undertaken before this Court that the petitioners will also be governed by the order, which will be passed by the Hon'ble Supreme Court of India in Special Leave to Appeal (C) No. 17134 of 2021.

That being so, the prejudice being shown by the State does not exist. In case, the State succeeds before the Hon'ble Supreme Court of India in Special Leave to Appeal (C) No. 17134 of 2021, the same will automatically be implemented upon the petitioners.

Further more, the said grievance of the petitioners can also be taken care of by directing them to file an appropriate affidavit before the State as well as the authorities concerned with regard to their undertaking that the petitioners will be bound by the order, which will be passed by the Hon'ble Supreme Court of India in Special Leave to Appeal (C) No. 17134 of 2021.

The argument, which has been raised by the State counsel that there is an interim order passed by the Letters Patent Bench in somewhat similar circumstances in LPA No. 19 of 2021 hence, the present proceedings may kindly be adjourned. The said argument is not available to the State for the reason that the interim order being relied upon by the respondent-State passed in LPA No. 19 of 2021 dated 26.02.2021 is as under :-

“Issue notice in the main appeal as well as in the application for condonation of delay in filing the same.

Mr. Ranjit Singh Kalra, learned counsel on the strength of caveat accepts notice on behalf of respondent No. 1.

List on 25.05.2021 alongwith LPA-626-2020.

In the meanwhile, operation of the impugned judgment dated 16.10.2019 passed by the learned Single Judge in CWP-15843-2018 shall remain stayed.”

The said order was passed on 26.02.2021 before LPA No. 171 of 2021 was decided by the Division Bench passed in ***Gurmair Kaur's case (supra)***. Further more, while passing order on 26.02.2021 in LPA No. 19 of 2021, the said LPA was to be listed along with LPA No. 626 of 2020. The said LPA No. 626 of 2020 has also been decided by the Division Bench on 15.12.2021 and the same has been dismissed keeping in view the orders

passed in LPA No. 171 of 2021 dated 22.03.2021. That being so, the reliance being placed by the learned State counsel on the order passed by the Division Bench dated 26.02.2021 in LPA No. 19 of 2021, cannot be accepted.

At this stage, learned State counsel submits that the result was declared in the year 2015 and the present petitions have been filed in 2021 and, therefore, they are liable to be rejected.

On being asked, learned State counsel concedes that the litigation was pending before this Court right from the year 2015 onwards and it is the State, who has been availing its legal remedies after the question of law was settled by the Co-ordinate Bench while passing order in CWP No. 7626 of 2015. It is a further conceded fact that as of now, all the posts advertised in the advertisement have not been filled up. That being so, the said grievance of the respondent-State is not at all maintainable at this stage.

Keeping in view the above, as concededly, the question of law raised in the present petitions is covered by the judgment in ***Gurmail Kaur's case (supra)***, the present petitions are also allowed in the same terms. However, allowing of their claim in terms of ***Gurmail Kaur's case (supra)***, will be subject to any order passed by the Hon'ble Supreme Court of India in Special Leave to Appeal (C) No. 17134 of 2021. It is directed that the claim of the petitioners will only be entertained by the respondents after the petitioners submit a due affidavit to the authorities concerned with the clear undertaking that whatever the order will be passed by the Hon'ble Supreme Court of India in Special Leave to Appeal (C) No. 17134 of 2021

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will *ipso-facto*, be applicable upon the petitioners as well.

As the writ petitions have been allowed, applications i.e. CM-1169-CWP-2022, CM-1166-CWP-2022, CM-1161-CWP-2022, CM-1158-CWP-2022, CM-1184-CWP-2022, CM-1151-CWP-2022, CM-1152-CWP-2022, CM-9465-CWP-2021, CM-9467-CWP-2021 and CM-9469-CWP-2021 stand disposed of.

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

August 29, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No