

CM-17923-CWP-2018 in/and
CWP-24775-2017

Date of Decision: March 22, 2022

Smt. Rachna Kalra

..... PETITIONER

Versus

State of Haryana and others

..... RESPONDENTS

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. V.D.Sharma, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

LISA GILL, J.CM-17923-CWP-2018

Prayer in the application is for placing on record replication to the written statement filed by the respondent. Same is taken on record subject to just exceptions.

Application is disposed of.

CWP-24775-2017

Prayer in this writ petition is for setting aside order dated 03.10.2017/30.10.2017 (Annexure P6) whereby order dated 06.05.2016 promoting the petitioner to the post of PGT Hindi has been withdrawn. Impugned order is stated to have been passed arbitrarily without even affording an opportunity of personal hearing or issuance of a show cause notice.

It is submitted that the petitioner joined services as Hindi teacher on 05.12.2000 at Government High School, Old Sabji Mandi, Amabla Cantt. and

was discharging her duties sincerely, diligently and to the entire satisfaction of her superiors. It is further submitted that petitioner was fully eligible and qualified for promotion to the post of PGT Hindi. 67% of the said posts are stated to be reserved for being filled through direct recruitment and 33% through promotion. Learned counsel for the petitioner submits that after due verification of testimonials and credentials of the petitioner, she was promoted to the post of TGT Hindi. Thereafter, in compliance of certain orders passed in CWP-13160-2016, promotion order of the petitioner was withdrawn vide order dated 28.03.2017 (Annexure P3).

Petitioner alongwith other PGT Hindi teachers challenged the order of reversion by filing CWP-7651-2017 titled Ram Naresh and others versus State of Haryana, which was disposed of on 14.07.2017 while clarifying that order passed in CWP-13160-2016 would be governing the cadre of Punjabi teachers (TGT or PGT only) and orders of promotions and postings of TGTs (promoted as PGTs) in any other cadre other than Punjabi would not be effected by order passed in CWP-13160-2016, with the respondent consequently being at liberty to withdraw the order.

Pursuant to order dated 14.07.2017 in CWP-7651-2017, order dated 22.02.2017 was restored by respondent No. 2 and petitioner was again promoted to the post of PGT Hindi vide order dated 18.07.2017 w.e.f. 22.02.2017 (Annexure P5). It is submitted that the said promotion order has, however, been withdrawn with immediate effect vide order dated 03.10.2017/30.10.2017 (Annexure P6) in an absolutely cryptic, non-speaking manner without as much as issuance of a show cause notice. Learned counsel for the petitioner submits

that the petitioner does not face any inquiry or charge sheet etc. and that there is no justification for passing the impugned order. It is, thus, prayed that this writ petition be allowed.

Notice of motion had been issued in this writ petition with operation of impugned order dated 03.10.2017/30.10.2017 (Annexure P6) being stayed. Learned counsel for the State while referring to the written statement filed on behalf of the respondent submits that in fact petitioner was not eligible for promotion at the relevant time as she had completed her B.Ed. course in the month of October, 2014, which is after the cut off date i.e. 01.01.2014 and it is on this account that her promotion has been withdrawn. Learned counsel for the petitioner has sought to refute the said averment by submitting that petitioner's name/candidature was duly forwarded for promotion pursuant to memo dated 25.03.2016 and she was in fact promoted after verification of all her credentials and testimonials and that there is no cut off which is mentioned in the applicable Rules i.e. Haryana State Education School Cadre (Group B) Service Rules, 2012. It is reiterated that had an opportunity been afforded to the petitioner before passing impugned order dated 03.10.2017/30.10.2017 (Annexure P6), all this could have been brought to the notice of the competent authority.

Heard, learned counsel for the parties and have gone through the file with their assistance.

Learned counsel for the State is unable to deny that impugned order withdrawing the order affording promotion to the petitioner to the post of PGT Hindi has been passed without as much as issuance of a show cause notice to the petitioner. Clearly, impugned order has serious consequence in respect to the

service of the petitioner and should not have been passed while ignoring the principles of natural justice. Petitioner was definitely entitled to an opportunity of hearing before passing the said order. Accordingly, keeping in view the facts and circumstances of the case, impugned order dated 03.10.2017/30.10.2017 (Annexure P6) is set aside being in complete and utter violation of principles of natural justice apart from being totally non-speaking. Liberty is, however, granted to the competent authority to pass an order afresh after affording due opportunity of hearing to the petitioner.

This writ petition is disposed of accordingly.

March 22, 2022
rts

**(LISA GILL)
JUDGE**

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