

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 2858 of 2022 (O&M)

Date of Decision:06.07.2022

Devender Singh and others

.....Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. S.K.Chauhan, Advocate
for the petitioners.

Mr. Harish Nain, AAG., Haryana.

LISA GILL, J(Oral).

Petitioners, in this case seek appointment/adjustment from the post of Clerk to the teaching cadre post of Lecturers etc., claiming to be duly qualified to be appointed as such on the basis of instructions dated 08.07.1965. Further, prayer is for setting aside order dated 06.10.2014, Annexure P-8, order dated 09.12.2013, Annexure P-9 and order dated 01.09.2014, Annexure P-10, whereby claim of the petitioners has been rejected.

It is submitted that all the petitioners who are serving as Clerk, Statistical Assistant etc., with the Haryana Education Department had acquired the qualification and eligibility for being appointed/adjusted as Masters/Mistress/Lecturers as prescribed in Instructions dated 08.07.1965.

Petitioners' no.1 to 4 and 6 claim appointment to the post of PGT and

petitioner no.5 claims appointment to the post of PGT or DPE. Writ petitions earlier filed by all the petitioners had been dismissed. Petitioners' no.1, 3 and 5 filed CWP no. 2737 of 2012, petitioner no.2 filed CWP No. 1581 of 2013, petitioner no.6 filed CWP No. 24400 of 2011 and CWP No. 22067 of 2013, was filed by petitioner no.4. Detailed order was passed in CWP no. 24400 of 2011 on 25.01.2013 by a Coordinate Bench holding the writ petition to be wholly misconceived while observing that Instructions dated 08.07.1965 stood withdrawn vide memo dated 16.11.2011 and that even if petitioners had filed representations prior to withdrawal of said instructions, the same was irrelevant as at the time of raising of claim by the petitioners, statutory rules stood notified. It is further observed that petitioners cannot derive any mileage from the judgment rendered in the case of Bharat Singh as statutory Service Rules, 1998, were never the subject matter of consideration therein.

LPA Nos. 847 and 850 of 2013 filed against the said decision was/were disposed of on 01.05.2013 while holding that view taken by the Single Judge that once method of recruitment is governed by the statutory rules, Instructions have no applicability, is a correct statement of law and calls for no interference. However, it was directed that in case, the department, while invoking powers under Rule 9 (1) (ii) has made appointments by way of transfer of the officials already in service of the State Government liberty was granted to the appellant to make a representation alongwith such instances and submit his claim and that representation/claim may be considered keeping in view the fact that the Instructions dated 08.07.1965 were still in force when he is said to have become eligible and applied. A speaking order was directed to be passed.

Accordingly different speaking orders i.e., order dated 06.10.2014,

Annexure P-8, order dated 09.12.2013, Annexure P-9 and order dated 01.09.2014, Annexure P-10, were passed rejecting the claim of the petitioners.

In all the speaking orders, reference has been made to the Haryana State School Education Lecturer School Cadre (Group-C) Service Rules 1998 as well as the Haryana State Education School Cadre (Group-B) Service Rules, 2012 and eligibility for appointment to the post in question as per the rules has been reproduced in the said order/s. It is stated therein that none of the appellants have the requisite eligibility of experience as stipulated under the rules. Therefore, none of the petitioners were held entitled for appointment to the post of Master/Mistress/Lecturer on temporary basis for a period of six months.

Aggrieved therefrom, present writ petition has been filed in November 2021.

Learned counsel for the petitioners has strenuously relied on the example of one Bharat Singh and Virender Singh whose Civil Suit was decided in their favour. Reference is made to RSA No. 1526 of 2004, decided on 28.06.2010, pursuant to which said employees are stated to have been adjusted/appointed in terms of the 1965 Instructions.

At this stage, it is apposite to refer to Instructions dated 08.07.1965, which though not attached along with the writ petition, have been reproduced in para no.4 of the writ petition and relevant part thereof reads as under:-

“xxxx.

The matter regarding the appointment of clerk as Masters/Mistresses/ Lecturers has been considered by the co-ordinate committee. It has been decided that the in service clerk who attain teachers training qualifications after doing

graduation and fulfill the condition of school subjects combination, may be appointed temporarily as Masters/Mistresses on six month basis provided they put in a request for the same, without any reference to the Employment Exchange. Similarly, the Ministerial Staff who during service obtained Master Degree in the subjects of Science, Mathematics, English etc., may be appointed as Lecturers on six months basis against the available vacancies if any. For their regular absorption, they will have to come through the prescribed recruiting agencies.”

Question regarding benefit being granted to Bharat Singh and Virender Singh i.e., the parties to RSA No. 1526 of 2004 was duly considered by the Coordinate Bench in CWP no. 24400 of 2011 while holding that the petitioners cannot derive any mileage therefrom as the statutory Service Rules of 1998 never even came up for consideration before the learned trial Court or thereafter at the stage of dismissal of Regular Second Appeal vide order dated 28.06.2010.

Division Bench of this High Court in LPA Nos. 847 and 850 of 2013 has upheld the finding of the Single Judge to the effect that method of recruitment has to be governed by the Statutory Rules. Only liberty afforded to the petitioners by the LPA Bench was a consideration to be made by the respondents in case the department had made appointments by way of transfer of officials already in service of State Government. Petitioners were afforded liberty to submit their claim with instances. Learned counsel for the petitioners has pleaded discrimination while referring to a list of employees who have been adjusted under 1965 Instructions. Perusal of the list so attached along with Annexure P-1, reveals that apart from Bharat Singh and Virender Singh, all the employees in question had been appointed/adjusted as per Instructions dated 08.07.1965 prior to its withdrawal in November

2011. Bharat Singh and Virender Singh, admittedly were adjusted on the basis of specific orders of the Court passed prior to withdrawal of this Instruction. Therefore, claim of the petitioners has been correctly rejected. Learned counsel for the petitioners is unable to point out any ground for interference.

Furthermore, it is pertinent to note that petitioners accepted the impugned orders passed way back in December 2013 and year 2014. Present writ petition has been filed in November 2021. There is indeed no explanation much less a reasonable explanation regarding the reason for this delay. It is a settled position of law that through there is no limitation for filing of a writ petition, it is expected that a litigant would come forward for agitating his or her claim within a reasonable period. Therefore, this writ petition is hit by delay and latches as well.

Keeping in view the facts and circumstances as above, no ground for any interference is made out.

No other argument has been addressed.

Accordingly, this writ petition is dismissed with no order as to costs.

06.07.2022
s.khan

[LISA GILL]
Judge

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