IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

219-A **CWP-3885-2019 (O&M)**
Date of decision: 27.02.2023

Narender Kumar and others

...Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ashwani Verma, Advocate for the petitioners.

Ms. Tanushree Gupta, DAG Haryana.

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HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition filed under Article 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari/mandamus setting aside the impugned order dated 27.05.2013 (Annexure P-6), whereby the claim of petitioner Nos.1, 2 and similar situated candidates has been rejected without application of mind and, directing the respondents to treat the petitioners being appointed, from the date candidates of General category and other reserved categories were appointed in terms of advertisement No. 01/99 and to fix their pay notionally and further grant them arrears of pay with interest @ 18% per annum and assign the seniority to them in the seniority list of their cadre as per their roster point in each block of 100 posts filled through recruitment process initiated in the same

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advertisement.

Learned counsel for the petitioners submits that the petitioners were never appointed on *adhoc* basis, from the day one they were appointed as a regular S.S. Masters/Mistress/DPEs (now Trained Graduate Teachers) in the Physically Handicapped category/quota in terms of re-advertisement of advertisement No. 01/99, published on 18.04.2021; that earlier the posts of Masters/Mistresses/ Lecturers/DPEs etc. were published vide advt. No. 01/99 for General category as well as other reserved categories, including the physically handicapped, but later on the posts meant for the physically handicapped category were withdrawn and it was decided to fill up those posts by the departmental Selection Committee; that posts meant for physically handicapped category (27 posts for Lecturer School Cadre and 57 Posts for Masters/Mistresses/DPEs) were re-advertised; that after completion of selection process, the petitioners were appointed on the posts of Masters/Mistresses/DPEs; that in the meantime, as per the Policy dated 01.10.2003, the services of *adhoc*/contractual/daily wages employees who had completed 03 years service were regularized by the State Government and they became senior to the petitioners.

Learned counsel for the petitioners further submits that the claim of petitioner Nos. 1, 2 and other similar situated candidates was rejected by respondent No.2-Director Elementary Education, Haryana, vide order dated 27.05.2013 (Anneuxre P-6) on the ground that they had served on *adhoc* basis from the year 1985 to 1988 and the benefit of the seniority by adding the *adhoc* services cannot be granted, whereas they have never worked as an *adhoc* employees. He also points out that in compliance of the order dated

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22.03.2007 passed in CWP-4344-2007 preferred by similarly situated employees, their claim was considered and accepted vide order dated 27.11.2007 (Annexure P-3) by the Commissioner & Director General, School Education Haryana, and they were assigned the seniority number in the seniority list of their cadre as per their roster point. The petitioners are on the same footing.

Learned State counsel submits that if the petitioners move a fresh representation to the department, then their case will be decided on merits in a time bound manner by passing an appropriate speaking order, in view of the relief as given to the other similarly situated employees.

I have heard the learned counsel for the parties and have also gone through the case file.

Without going into the merits of the case, the petition is disposed of with a direction to the petitioners to move a representation to respondent No.2 and the same be decided in view of the relief granted to the similarly situated employees, vide order dated 27.11.2007 (Annexure P-3), by passing a speaking order, in accordance with law, within a period of eight weeks from the date of receipt of copy of this order.

(HARNARESH SINGH GILL)
JUDGE

27.02.2023
Mangal Singh

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No

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