

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-605-2022 (O&M)

Date of Decision: 26.07.2023

Simranjit Kaur

.....Appellant

Versus

Educational Tribunal, Chandigarh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI

Present : Mr. D.S. Patwalia, Senior Advocate, with
Mr. A.S. Chadha, Advocate,
for the appellant.

Ms. Ruchi Sekhri, Additional Standing Counsel, and
Mr. Deepak Malhotra, Junior Standing Counsel,
for the respondent-U.T., Chandigarh.

ARUN PALLI, J.

1. This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 08.02.2022, vide which the writ petition, preferred by the appellant, has since been dismissed.
2. Before the Writ Court, the appellant had prayed for the following substantive reliefs:

***“CIVIL WRIT PETITION under Article 226/227 of the
Constitution of India with a prayer that this Hon'ble Court
may be please to issue an appropriate writ order or direction
including a writ in the nature of Certiorari setting aside the
order dated 29.10.2021 (Annexure P-1) passed by the Ld.
Education Tribunal Chandigarh vide which the appeal filed***

by the petitioner has been dismissed by wrongly holding that the petitioner was not a permanent employee of the respondent college and also the Education Tribunal erring on facts as well as law in coming to the said conclusion and thus the said order deserves to be set aside.

It is further prayed that this Hon'ble Court may be please to issue an appropriate writ order or direction including a writ in the nature of Mandamus directing the respondents to allow the petitioner to continue to be in service and employment of the respondent college on the post of Assistant Professor and thus allowing her to continue to work on the said post in pursuance to the appointment and selection of the petitioner on the said post.

It is further prayed that this Hon'ble Court may be please to issue an appropriate writ order or direction including a writ in the nature of Mandamus directing the respondents to issue an appointment order to the petitioner on the post of Assistant Professor in pursuance to the selection and appointment on the basis of the recruitment carried out by the respondents in the year 2016 as also the advertisement dated 24.2.2016 (Annexure P-3) issued by the respondent college and also keeping in view the fact that the petitioner had joined services and worked on the post of Assistant Professor.

It is further prayed that this Hon'ble Court may be

please to issue an appropriate writ order or direction including a writ in the nature of Mandamus directing the respondents to treat the period of the petitioner from a date of appointment i.e., 25.7.2016 till date as service period and accordingly to fix her pay and to release the pay for the said period when she was restricted from attending the college.....”

3. Learned Senior counsel for the appellant has merely reiterated the submissions that were advanced before the learned Single Judge: pursuant to the permission granted (on 30.01.2015), by the Education Department to the Principal, Dev Samaj College of Education, Sector-36, Chandigarh (the College), one post of Assistant Professor, in Education, was advertised on 24.02.2016 (P-3) by the College. He submits that College also sent a requisition to the Regional Employment Exchange, Chandigarh, for the said post. And in response, the Regional Employment Officer sent a list of 18 candidates, including the appellant, to the College for interview. The selection committee, composed of six members (inclusive of the Chairman and Principal of the College, and subject experts from the Department of Education, Panjab University, Chandigarh), interviewed the appellant, along with others, on 04.05.2016 (P-6). And recommended to appoint the candidate at serial number 1 (Monika Ahlawat), and the appellant (Simranjit Kaur), was placed at serial number 2, in the order of merit. However, the candidate at number 1 in the merit list opted not to join. As a result, the appellant joined the College on 25.07.2016 and continued to work till 08.09.2016. It is urged that neither did the College issue any formal letter of appointment to the appellant, nor was she paid salary for the period she served the

College. Rather, it is submitted that she was asked to give in writing for change of her assignment from the regular Assistant Professor (full-time) to part-time. And, upon her refusal to do so, she was instructed to not mark her attendance in the register and her entry in the College was also banned. Whereafter, on 30.09.2016 (P-14), the appellant represented to the Director, Higher Education, Chandigarh Administration, to direct the College to allow her to discharge her duties and issue the letter of appointment and her salary. However, vide communication dated 28.10.2016, the College informed the Department that M.Ed. course was being run by it under self-financed scheme. And since no admission was made in the said course for the session 2016-18, there was hardly any requirement to appoint any faculty for the said course. Aggrieved, the appellant appealed to the Educational Tribunal, Chandigarh. However, vide order and judgment dated 29.10.2021 (P-1), her appeal was dismissed on the short ground that mere selection would not vest any indefeasible right in the appellant to claim appointment, unless any other person against the post in question was appointed or the action of the authorities suffered from any illegality.

4. In reference to the Information Brochure 2016-17 (P-9), issued by the College, learned Senior counsel points out that the name of the appellant, as Assistant Professor, is shown in the faculty. Not just that, he asserts that she is also shown as part of the College Governing Committees for the co-curricular activities: being In-charge for music items, discussion lesson, In-charge folk/classical dance and question bank. Further, the attendance register (P-10), for B.Ed. (IIIrd semester), Section: Group-I, Subject: “School Internship Programme”, shows that she served for the month of July (25.07.2016 to 31.07.2016), entire month of August, and September (03.09.2016 to 08.09.2016).

Similarly, appreciation letter dated 20.08.2016 (P-11), issued by the Coordinator, Centralized B.Ed. Admissions 2016 (Department of Education, Panjab University, Chandigarh), not only shows that the appellant was appreciated for her endeavour in successful completion of the counselling process, but also that she belonged to Dev Samaj College of Education, Chandigarh. Our attention has also been drawn to the letter dated 08.09.2016 (P-12), issued by the Headmistress, Government Model High School, Sector 41, Badheri, Chandigarh, wherein again, the efforts put in by the B.Ed. (2016-18) students of the College under the able guidance of the appellant were appreciated. Another document, which has been referred to, is the Indira Gandhi National Open University (IGNOU) certificate, dated 02.09.2016 (P-13), given to the appellant for attending the orientation programme for academic counsellors on 01.09.2016 and 02.09.2016, which also shows her to be from the College and that she had already been proposed for B.Ed. Thus, he asserts that preceded by her selection, the appellant was appointed as Assistant Professor in Education, and as a consequence thereof, she served the College. Thus, issuance of a formal letter of appointment was only consequential and a mere formality. Hence, he submits that the learned Single Judge seriously erred in observing that there was nothing on record to show that the appellant was ever appointed or even asked to perform the duties by the appointing authority. Therefore, even if the documents that were being relied upon by the appellant were correct, at best, she could claim the salary for the period she actually performed the duty. No other argument was raised.

5. We have heard the learned Senior counsel for the appellant and perused the records.

6. The specific case set out by the respondent (Dev Samaj College for

Education), has been that in terms of NCTE/UGC regulations, a committee, to obtain affiliation for M.Ed. courses, constituted by the Panjab University had inspected the premises/infrastructure of the College. Whereupon, the post of Assistant Professor in Education was advertised (24.02.2016) for M.Ed. (self financed course). And, in anticipation of admissions in the M.Ed. course, the College initiated the process of selection and recruitment. Accordingly, on 04.05.2016, the appellant was selected for appointment to teach the students of the said course. It would be apposite to point out, at this stage, that centralized M.Ed. admissions were made by the Panjab University in the month of August/September, 2016. But, since even till the last date, no student sought admission (M.Ed. course) with the respondent-College for the session 2016-18, it was observed as a zero year. And, vide two separate letters dated 26.09.2016 and 02.11.2016, the College furnished the requisite information to the University:

“The Deputy Registrar (Colleges)

Panjab University

Chandigarh

Respected Sir,

This is to inform you that there is no admission in the M.Ed. course for the session 2016-18. Hence, it is a zero year for M.Ed. course of the college for the session 2016-18.

Thanking You

Yours Sincerely

Dr. (Mrs.) Agnese Dhillon

Principal”

7. For there were no admissions/students, the appellant was never appointed. Concededly, no appointment letter was ever issued to her either.

Similarly, even the Higher Education Department, U.T., Chandigarh, in its response, clarified that vide order dated 30.01.2015, the College was granted permission to advertise the post. However, on 28.10.2016, the College informed the Administration: ***“the Principal of Dev Samaj College of Education informed to the answering respondent vide letter dated 28.10.2016 that no appointment letter was issued to the petition to join the College. She further informed that the post of Assistant Professor in Education was advertised for B.Ed. (Self Financed Course) and there was no admission in M.Ed Course in the College for the session 2016-18, hence no appointment letter was issued.”***

8. As for the combined brochure, (for B.Ed., PGDCA and for IGNOU) of the College, which reflected the list of selected candidates, the same was published in the month of **July, 2016**. Further, for the process of interview was finalised, anticipating students' intake in the M.Ed. course, the College, vide letter dated 04.10.2016, submitted the quarterly employment return (quarter ending 30.09.2016) to the Employment Exchange. But, significantly, the said letter specifically recites that the appellant was yet to be engaged. We are also reminded to point out, for the appellant was never appointed, her name continued to exist in the records of the Employment Exchange. And, in response to a subsequent advertisement (dated **04.01.2017**), for the post of Assistant Professor (**Home Science**), name of the appellant was again forwarded by the Employment Exchange on **14.02.2017**. However, she chose not to appear for the interview. It does not end there, as later, she also competed for selection to the post of Assistant Professor in **Music (Vocal)**, and appeared for interview on **25.11.2017**. But, was not found suitable by the selection committee.

9. As regards the attendance sheet showing that appellant was sent by the College to attend internship as Teacher in-charge from July to September,

2016, it was nothing but a self-created document. The appellant was never deputed for the said purpose by the College. The document was not signed/counter-signed by the Principal of the concerned school either. Even the certificate issued by the Coordinator, Centralized B.Ed. Admission, 2016, relied upon by the appellant, would not advance her case. For, per records, the appellant, being a research scholar of Panjab University, was eligible to perform duty in the centralized admissions of the University. Thus, the appreciation letters/certificates were her personal documents. Similarly, as regards the letter of appreciation issued by the Government Model High School, Badheri, Sector-41, Chandigarh, upon being pointedly asked, learned Senior counsel, as always, fairly submits that there was nothing on record to show that appellant was ever deputed by the College for the said purpose. In fact, the case of the College was/is that one Ms. Manjeet Kaur was deputed as teacher in-charge for the said purpose. Thus, the appellant appeared to have procured the said letter directly from the school without any directions from the authorities. As for the IGNOU certificate, relied upon by the appellant, the stand set out by the College is that an independent IGNOU centre was running in the college and, thus, the same had no relevance to the post in question. The learned Single Judge, in reference to the decision of the Supreme Court in **Shankarsan Dash Vs. Union of India, (1991) 3 SCC 47**, concluded that even otherwise, mere selection did not vest any indefeasible right in appellant to seek appointment. And, per records, no candidate out of the select list was offered appointment either.

10. Thus, in the wake of the position sketched out above, the only and the inevitable conclusion that could be reached: though the appellant was selected by the duly constituted selection committee, but she was never appointed to the post in question. Concededly, no letter of appointment was ever issued to the

appellant. It is not disputed either that she was not paid any salary for the period she claimed to have served the College. The veracity of the documents (*ibid*), on the basis whereof the appellant requires this Court to conclude that she was appointed as Assistant Professor (in Education), is seriously disputed. And, even otherwise, those documents do not prove/substantiate her case.

11. Therefore, in the absence of any cogent and conclusive material, the claim of the appellant remained unproved/unsubstantiated. Thus, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal, being bereft of merit, is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

26.07.2023
AK Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No