

[292] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

[1] CWP-21753-2010
Date of Decision :28.11.2023

Amarpreet Singh and another ...Petitioners

versus

State of Punjab and anotherRespondents

[2] CWP-17601-2011

Rajinder Singh ...Petitioner

versus

State of Punjab and anotherRespondents

Coram : **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Present : None for the petitioners.
Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (ORAL)

[1] The petitioners by these writ petitions have challenged public notice dated 09.07.2010 which inspite of completion of the selection process were asked to re-appear before the Selection Committee for fresh selection under the changed criteria.

[2] The issue is no more *res intergra*, the judgments passed by this Court have been upheld but the appointments which were made earlier have been saved by the Hon'ble Supreme Court in '**Ashu Chopra and others**versus**The State of Punjab and others**', Civil Appeal

No(s).4501-4502 of 2021 along with 'Rajesh Kumar and others', Civil

Appeal No(s).7417-7418 of 2014 and following order has been passed:-

“ There is no occasion for us here to interfere with the findings arrived at by the Division Bench of Punjab and Haryana High Court. Rather we uphold the findings on the question of law determined by the High Court.

We have also been informed that subsequent to the delivery of the said judgment, the state of Punjab had filed a review petition seeking clarification as to whether the judgment would be applicable to the selections already been made by the State Government though, appointment orders have not been issued in such cases. The Court vide its order dated 08.01.2010 rejected the review petition making it absolutely clear that it would be applicable to all future appointments.

We make this clarification in view of the fact that there are some appellants before us who though were “selected”, prior to the delivery of the said judgment i.e., on 08.01.2010 but were not given appointment letters. Their prayer before this Court is that the judgment of the Division Bench of Punjab and Haryana High Court should not be applicable to the selections which had already been made prior to 08.01.2010.

These appellants are appellant Nos. 107 to 124 in Civil Appeal No(s). 7417-7418 of 2014 : Rajesh Kumar and Ors. who were impleaded as appellants in this case vide an order dated 09.05.2014. The remaining appellants i.e., appellant Nos. 1 to 106 in Civil Appeal No(s). 7417-7418 of 2014 : Rajesh Kumar and Ors. and the five appellants in Civil Appeal Nos.4501-4502 of 2021: Ashu Chopra and Ors. are on a different footing and we find that there is a special equity in their favour and therefore, they need to be protected.

These are the appellants who were not only selected prior to the delivery of the said judgment on 08.01.2010 but, in their case appointment letters had also been issued on different dates, (some of these we have been told were even prior to

08.01.2010) and subsequently, they had also joined their service as teachers in government primary schools. All the same, after the delivery of judgment in Neelam Rani Vs. State of Punjab on 08.01.2010, the appellants were apprehending that their services will be terminated in view of the law laid down by the Division Bench of the Punjab and Haryana High Court particularly, in view of the fact that Government had issued fresh advertisement inviting fresh application for the post on which appointment had already been made in their favour. They were hence constrained to file the present two appeals before this Court in which leave was granted, and vide order dated 21.03.2012 status quo was ordered. They have been teaching since 2010-11, and there has been no break in their service.

Now, to bring their services to an end in term of the judgment of the Punjab and Haryana High Court dated 08.01.2010, would not only cause hardship to these appellants but we are also of a considered view that under the facts of the case, which we have discussed above, these appellants also have a special equity in their favour. Moreover there is no dispute as to their qualification, etc.

Under these circumstances, the interim orders dated 21.03.2012 passed in Ashu Chopra and Ors. and 13.12.2011 passed in Rajesh Kumar and Ors. only for appellant Nos. 1 to 106, which are orders for status quo, are made absolute, and these appellants shall not be disturbed from their service. Their appointment will be treated as an appointment made in accordance with law.

We also further clarify that the appellant Nos. 107 to 124 in Rajesh Kumar and Ors. are on a different footing as they were never appointed; only selected. All the same, we say nothing on the merit of their case for the reason that these appellants have filed a Writ Petition, which is still pending before the Punjab and Haryana High Court and no decision on this has

been taken and the case had been adjourned sine die, for the reasons of the pendency of the present appeal before this Court. Now since we have disposed of the appeal, there petition can be taken up and matter should be decided on its merits. The appellants would be at liberty to move an application before the Punjab and Haryana High Court for an early hearing.

The present appeals stand disposed of with the above terms.

Pending application(s), if any, shall stand disposed of. ”

[3] Thus, the fresh selection under the changed criteria has been upheld and those who were appointed earlier, their appointments have been saved. As regards those who have been selected but not appointed, no right can be said to be created in their favour merely because of having been placed in the select list. The persons, who have been subsequently selected under the revised criteria are not parties before the Court nor their selection has been interfered by the Hon'ble Supreme Court.

[4] In view of the above, the claim of the petitioners is not made out, the same is rejected. The writ petitions are dismissed accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

28.11.2023

'Rajneesh'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>