

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

102

CWP No.24269-2014
DECIDED ON: 08.08.2023

Joginder Singh and others

.....Petitioners

VERSUS

state of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr.Deepak Gupta, Advocate, for the petitioners.

Mr. Paramjit Batta, Addl. A.G.Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. The petitioners have preferred this writ petition praying for considering them for appointment to the post of Physical Trainee Instructors against Advertisement issued on 28.03.2001 relying upon an order passed in LPA No.1214/2012 dated 12.03.2013, whereby, this Court directed to consider the case of the petitioners therein for appointment to the post of Physical Trainee Instructors.

2. Learned counsel for the petitioners submits that posts are still lying vacant and petitioners have to be considered as they are similarly situated to the petitioners who were there before this Court in LPA No.1214/2012.

3. Learned counsel submits that the petitioners who have possessed the higher qualification, which is laid down in the Advertisement dated 28.03.2001 and their cases ought to have also been considered.

4. In reply to the writ petition, the respondents have raised a preliminary objection of the petition having been filed after a delay of 13 years.

The respondents have pointed out that while the petitioners in the aforesaid LPA had approached the Court in 2001 itself when the advertisement was issued, the petitioners have not given out any reason for remaining silent for 13 years. The respondents have relied upon a judgment passed by a Co-ordinate Bench of this Court in **Rajender Kaur v. State of Punjab and others (1992) 1 SLR 379 (P&H) (DB)**, wherein a writ petition preferred after three years of passing of the order was dismissed on the ground of delay and laches relying upon the judgment of Supreme Court in **State of Uttraranchal and another v. Shiv Charan Singh Bhandari and others (2013) 12 Supreme Court Cases 179** to submit that the writ petition deserves to be dismissed.

5. I have heard the submissions.

6. The petitioners had applied with respect to the Advertisement dated 28.03.2001, having full knowledge that they were not qualified under the said advertisement. Later, when they have not been allotted on the basis of their education qualifications, they need not took up the matter before this Court for long 13 years. Having already participated in the process of selection without any objection, they cannot be allowed to raise objection regarding qualifications under the Advertisement after a period of more than 13 years. So far as the order passed in LPA (Supra) is concerned, the same was an order in *personam* limited to the petitioners therein and that too on the basis of the statement made by the counsel therein that vacancies are lying with the State. By way of exception, the Court passed the following order:-

“xxx

The petitions had challenged the action of the respondents in rejecting their candidatures, by filing the writ petition in the year 2001 itself. When this petition came up for hearing on April, 20,2012, the petitioners had relied upon the aforesaid judgment of the Full Bench in Manjit Singh's case (Supra). However, while accepting this contention,

learned Single Judge has refused to grant relief on the ground that the applications were made in the year 2001 and the selected candidates have not been impleaded as a party and in their absence, no relief can be granted. in this appeal preferred by some of the petitioners, who were parties in the said writ petition, it is contended that the appellants had approached the Court much before the final selection, therefore, at the time of filing of the writ petition, the persons who were going to be selected were not known and that was the reason for not impleading them as a party. That apart, it is argued that the appellants are not challenging the selection of those who have already been appointed. Instead, the appellants are claiming the relief of their own consideration for appointment to the post of Physical Training Instructions.

As the selection process took place in the year 2001, we wanted to find out as to whether any post of Physical Training Instructors is available at present or not.

In response, the respondents have filed an affidavit dated 03.02.2013 stating that out of total 3551 sanctioned posts of Physical Training Instructors, 2989 posts are filled and 562 posts are still lying vacant out of which 119 posts have been kept reserved in compliance with the interim orders of this Court passed in CWP NO. 12222 of 2012. It is clear from the above that substantial number of posts are available. As the candidatures of the appellants herein was wrongly rejected, they can always be considered for appointment against those posts.

In these circumstances, this appeal is disposed of with a direction to the respondents to consider the candidatures of the appellants to the posts of Physical Training Instructors and in case, the appellants are found suitable for appointment to those posts, they shall be given appointments against available posts. This will be treated as fresh appointments. However, the process shall be completed within three months. It is, however, made clear hat when the appellants have applied for the posts in questions, they were well within their get limits and their candidatures would not be rejected on this ground. However, they will be treated as fresh appointees if they are selected.”

However, from the aforesaid order, it does not reflect that the Division Bench made the order to apply to all the persons who have been left for seeking appointment. Moreover, this Court is of affirm view that those who are watching the game from the stands cannot be allowed to participate after the game is over.

7. The writ petition suffers from gross latches and delay and hence, dismissed.

08.08.2023
mamta

(SANJEEV PRAKASH SHARMA)
JUDGE

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