

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 19006 of 2020

Reserved on: May 26, 2023

Date of Decision: June 2, 2023

Ajit Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Keshav Gupta, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

None for respondent No.3.

Ms. Saloni Sharma, Advocate, for
Mr. Prateek Mahajan, Advocate,
for respondent No.4.

JAISHREE THAKUR, J.

1. By way of instant writ petition, the petitioner herein seeks issuance of a writ in the nature of Certiorari quashing the impugned order dated 12.10.2020 (Annexure P/11), whereby the approval to issue the final appointment letter to the petitioner on the post of Assistant Professor (English) in Backward Class Category has been refused.

2. The facts in nutshell are the petitioner, being fully eligible, applied for the post of Assistant Professor (English) in Backward Class Category in pursuance of an advertisement dated 16.9.2019 (P-1). As a result of the selection process, the petitioner was shown at serial No.1 in the waiting list and one Mr. Kiran Kumar was shown as selected. However, since Mr. Kiran Kumar

had already joined Dyal Singh College, Karnal, therefore, he refused to join and in these circumstances, respondent No.3—College took a decision to appoint the petitioner. Consequently, respondent No.3—College requested the Kurukshetra University—respondent No. 4 to accord an approval to the appointment of the petitioner on 19.3.2020. Earlier to this, vide Notice dated 13.3.2020, the Kurukshetra University had already suspended functioning of the University for public dealing, in order to prevent epidemic condition arising out of Novel Corona Virus (Covid-19). Thereafter, the Government of India announced national lockdown on 24.03.2020 and all educational institutions, including the University were closed. Eventually, on re-opening, the University gave approval to the selection of the petitioner vide letter dated 2.6.2020. However, since hard copy of the said approval was not received in time, because of the affected functioning of the postal authorities during Covid, the respondent No.3—College immediately requested for the approval of the Director General Higher Education—respondent No. 2, vide letter dated 16.6.2020. Respondent No.2 kept the matter pending for more than four months and then rejected vide impugned order dated 12.10.2020. Hence, the instant writ petition.

3. Learned counsel for the petitioner herein would contend that appointment denied to the petitioner only on the pretext of expiry of six months from the date of interview is illegal and arbitrary. In fact, the said action amounts to taking an advantage of their own wrong and is therefore, irrational and illegal.

4. Per contra, learned counsel appearing on behalf of respondents No. 1 and 2 would contend that any appointment to the post of Assistant

Professor against vacant post can only be made during the validity period of six months from the panel of selected candidates from the date of interview as it has been specifically provided in para 2 of the Instructions issued vide letter No. 8/12-98 C-IV (1) dated 3.3.1999, which reads as under:-

“ 2. The validity period of the panel will be six months only from the date of interview and the appointment can be made during the validity period only.”

It is submitted that interview for appointment to the post in question was held on 14.12.2019 and the panel of selected candidates was prepared on that day itself, as indicated in the selection proceedings. The validity of this panel expired on 13.6.2020, as per the above mentioned instructions and the respondent College forwarded selection proceedings with request for approval of the name petitioner on 16.6.2020 i.e. after expiry of validity period of six months and, therefore, in such a situation, the approval to the appointment has rightly not been given to the petitioner.

5. Learned counsel appearing on behalf of respondents No. 3 and 4 would contend that they have no role to play in the present case. Insofar as respondent No.3—College is concerned, on receipt of approval from respondent No.4—University, it had sent the case of the petitioner for appointment to the office of Director of Higher Education—respondent No.2 and it was respondent No.2 which has declined to accord the approval.

6. As per Rule 7 of the Haryana Affiliated Colleges Security of Services Rules, 2006 as well as Circular dated 3.3.1999 (P-13), it was incumbent upon the respondent—College to take prior approval firstly from the affiliating University and thereafter from the office of the Director, Higher

Education, Haryana, before giving appointment to the selected candidates on any post. In the present case, there was no delay on the part of respondent—College in pursuing the appointment of the petitioner at any stage. Due to non-joining of Sh. Kiran Kumar, the respondent—College vide its letter dated 19.3.2020, sent the case to the University for grant of approval to the appointment of the petitioner as Assistant Professor. However, the approval by the University was given on 2.6.2020, which was received in the College on 12.6.2020. After receipt of the aforesaid approval, the respondent—College immediately sent the case of the petitioner for appointment to the office of Director of Higher Education—respondent No.2 on 16.6.2020. The Directorate, vide its letter dated 12.10.2020, denied the approval for giving appointment to the petitioner on the post of Assistant Professor (English) on the ground that the validity of selection list of six months has already expired on 13.6.2020.

7. From the bare perusal of the facts narrated above, it is clear that there is no fault attributable to the petitioner in the entire process of appointment. It was entirely because of intra-departmental communications and epidemic conditions arising due to the Novel Corona Virus that caused delay in according approval to the appointment of the petitioner to the post of Assistant Professor, for which the petitioner cannot be made to suffer. This court must take judicial notice of the fact that during the epidemic there was a total lock down which commenced for the 20.3.2020 and was extended till the 31st of May. Even then there was limited working of offices. The Supreme Court itself allowed the period of limitation to be extended. Orders to this effect were passed in Civil Original Jurisdiction Miscellaneous Application No. 21 of 2021, in Miscellaneous Application No.651 of 2022 in Sou Moto Writ Petition (C)

No.3 of 2020 in Re:Cognizance for extension of Limitation. On 23.03.2020, the Supreme Court directed the extension of period of limitation in all proceedings before Courts/Tribunals till further orders. It was on 8.3.2021 that the order was brought to an end. With the second wave and lockdown the limitation period was extended further. The validity of the panel which was for six months expired on 13.6.2020 and since there was a lockdown from 22.3.2020 to 1.6.2020, this period is to be excluded. In such a situation, recourse to Para 2 of the Instructions dated 3.3.1999, re-produced above, while declining approval by respondent No.2 is wholly unwarranted and deserves to be set aside. At this stage, one cannot lose sight of the fact that the very purpose of framing a waiting list is to ensure that the exercise of selection does not become repetitive and meaningless on refusal of some candidate to join. In the instant case, it stands established that there is no fault on the part of the petitioner and in fact his legitimate right to appointment has been denied on frivolous grounds.

8. For the reasons afore-stated, the writ petition is allowed, the impugned order dated 12.10.2020 is set aside and the respondents are directed to accord approval to the appointment of the petitioner to the post of Assistant Professor (English) in Backward Class Category within a period of one month from the date of receipt of a copy of this order. The petitioner would be allowed all notional benefits.

June 2, 2023
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No