

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1. CWP No. 15933 of 2023
Date of Decision : 26.7.2023

Paramjeet Kaur and another *Petitioners*
versus
State of Haryana and others *Respondents*

2. CWP No. 14681 of 2023

Neelam Rani *Petitioner*
versus
State of Haryana and others *Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. A.S. Talwar, Advocate, for the petitioners

TRIBHUVAN DAHIYA J. (ORAL):

This order shall dispose of the above numbered two petitions as similar questions of law and facts are involved therein. Facts are being taken from CWP No.15933 of 2023.

2. This petition has been filed seeking a writ of *certiorari* quashing the order dated 1.7.2023 (Annexure P-11), whereby the candidates, who were below in merit and not qualified on the cut-off-date as per advertisement no.2 of 2012, have been ordered to be appointed as Primary Teachers/PRT (ART) in their respective districts in the State of Haryana, which is contrary to the judgment of the Supreme Court passed in Civil Appeal No. 7136 of 2022 (Annexure P-10).

3. The petitioners claim themselves to be eligible for appointment as Primary Teachers in the State. They are aggrieved since the respondents are filling-up non-advertised vacancies by way of impugned order, dated 1.7.2023, issued to provide “appointment to candidate selected in the in the second waiting list on the port (*post*) of PRT before advertisement no.2/2012”. In this manner, the candidates who were lower in merit and not qualified on the cut-off-date, have been offered appointment. The order is, therefore, in violation of the judgment passed by the Supreme Court in Civil Appeal No. 7136 of 2022 (Annexure P-10).

4. As apparent on record, litigation pertaining to selections of Primary Teachers pursuant to advertisement no.2 of 2012, was finally put to an end, vide order dated 13.9.2022, passed by the Supreme Court with consent of learned counsel appearing for all the parties in all the matters, in the following manner:

28. In the above facts and circumstances and taking into consideration the stand of the State of Haryana as communicated by its learned counsel, we are of the view that in the present case this litigation of more than a decade could be put to a quietus and the mammoth exercise of holding the selections for 9870 posts in the year 2012 be given its full benefit. We pass the following order:

(I) The total number of advertised posts i.e. 9870 to be filled up first from the selected candidates declared in the result dated 14.8.2014.

(ii) In the event, the selected candidates from the above category do not join, then the remaining vacancies shall be filled up from the list of wait-listed candidates declared alongwith successful candidates on 14.8.2014.

(iii) After filling up of the 9870 vacancies as provided above, the 2233 candidates who qualified the HTET after

the cut-off date, sometimes in June 2013 will be appointed as per their *inter se* merit enbloc below the above 9870 candidates.

(iv) In case, there still remain any wait listed candidates from the wait listed list of 14.8.2014, who could not be accommodated in the advertised posts of 9870, will be appointed enbloc as per their merit below the 2233 candidates.

(v) The seniority will be as per their merit position in their respective lists.

(vi) No dispute for seniority would be entertained of any candidate *inter se* different lists.

(vii) No claim for seniority or for any arrears would be entertained for any period nor worked by the candidates of any of the above lists.

(viii) Salary would be paid for the period, for which such candidates have actually worked but not paid salary after due verification of their working both from the records and physically.

(ix) The 2012 selections will stand closed with the above arrangement.

(x) Exercising our powers under Article 142 of the Constitution, we increase the number of advertised posts beyond 9870 to accommodate the candidates as directed above and no more.

(xi) All the appeals are disposed of as directed above.

(xii) The impugned judgment shall stand modified to the aforesaid extent.

5. Learned counsel for the petitioners contends that the impugned order dated 1.7.2023 giving appointments to candidates selected in the second waiting list on the post of Primary Teachers is contrary to the directions issued by the Supreme Court, vide order dated 13.9.2022,

whereby the respondents are not permitted to make any appointment out of the second waiting list. As per the direction (iv), in case there remain any wait-listed candidates from the wait list of 14.8.2014, who could not be accommodated in the advertised posts of 9870, they will be appointed enbloc as per their merit below the 2233 candidates. Therefore, the direction is only to fill up wait-listed candidates from the wait list of 14.8.2014; whereas, by way of the impugned order the respondents have given appointment to the persons who were not in that wait list. Since a fresh order, dated 01.07.2023, has been passed by the respondents, it will give a fresh cause to the petitioners to file the instant petition.

6. Submissions made by learned counsel for the petitioners have been considered.

7. Undisputedly, the petitioners are not from amongst the selected or wait-listed candidates for the post of Primary Teachers (ART) pursuant to advertisement no.2 of 2012. They have approached this Court with a plea that the respondents have misinterpreted and misconstrued the order/directions of the Supreme Court, dated 13.9.2022, by passing the impugned order, dated 1.7.2023, providing appointments to the selected candidates from the second wait list, which is illegal being in violation of the directions; it is a fresh cause of action, that entitles them to file the instant petition. The Supreme Court by passing the consensual order, dated 13.9.2022, has put to a quietus more than a decade old litigation pertaining to the selections of Primary Teachers (ART). The submissions made by the learned counsel in substance amount to interpreting the directions issued by the Supreme court, and/or ascertaining whether these directions have been violated by the respondents in issuing the impugned

order. Jurisdiction of this Court under Article 226 cannot be invoked on either of the issues. Nor can an order passed purportedly to give effect to the directions issued by the highest Court after finally settling the issues, give rise to a fresh cause. If this Court is to hold otherwise, no litigation will come to an end, keeping the issues open in perpetuity, which is neither in the interest of the contesting parties, nor the system of justice dispensation. Therefore, as the entire litigation with respect to the selection in question stands finally concluded, entertaining the instant petition would only amount to re-opening the selection, which is not permissible. In case the respondents have committed the alleged violation, intentional or otherwise, the petitioners are at liberty to take recourse to the remedies available, in accordance with law.

8. In view of the aforesaid, there is no ground to entertain the petition.

9. Dismissed, with the liberty aforementioned.

(TRIBHUVAN DAHIYA)
JUDGE

26.7.2023
Ashwani

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