

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 118

Civil Writ Petition No.24652 of 2023
Date of Decision: *November 03, 2023*

Baljit Singh

..... PETITIONER(S)

VERSUS

State of Haryana & others

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

...

PRESENT: - Mr. A.S. Virk, Advocate, for the petitioner.

Ms. Tanushree Gupta, Deputy Advocate General,
Haryana.

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Tribhuvan Dahiya, J (Oral)

This petition has been filed *inter alia* seeking a writ of *certiorari* to set aside the letter dated 16.06.2023, Annexure P-13, to the extent it stipulates that in the event of non-joining the post immediately, the petitioner's appointment will be deemed to be cancelled. Further, a writ of *mandamus* has been sought directing the respondents to allow the petitioner to join as TGT-English (Group-C Services), Department of Elementary Education, Haryana, at Government High School, Kutabpur, in terms of the letter/order of appointment, dated 28.11.2022, Annexure P-4.

2. Learned counsel for the petitioner contends that the petitioner is working as Assistant in Kurukshetra University,

Kurukshetra. During service, he along with other candidates, was selected and appointed as TGT-English (Rest of Haryana) Cadre, and directed to join at Government High School, Kutabpur, Kaithal (2222) within fifteen days, vide letter dated 28.11.2022, failing which the offer of appointment would be deemed to have been withdrawn.

3. Since the petitioner was already working as Assistant in the University, to get the necessary approvals for getting relieved from there, he applied for extension in joining time vide letter, dated 30.11.2022, Annexure P-5. Respondent No.2 accepted his request and granted extension up to 30.04.2023, vide letter dated 02.05.2023, Annexure P-9. However, the letter was endorsed to him on 11.05.2023 and delivered on 31.05.2023 at 05:12 PM, as is apparent from the Track Consignment details, placed on record as Annexure P-11. Therefore, the petitioner could not avail the extended joining time.

4. In this situation, the petitioner again requested for correction in joining date/extension of joining time, vide letter dated 05.06.2023, Annexure P-12. The request for extension was rejected by the respondents, but at the same time he was directed to join the post with immediate effect, vide letter dated 16.06.2023. The letter was received by the petitioner on 23.06.2023, as averred in the petition. On receiving the letter, twice over petitioner visited the office of District Elementary Education Officer (DEEO), Kaithal, to get information regarding the date of joining, so that he may obtain relieving from the University where he is working, for joining the post. But due to on-

going strike of the ministerial cadre staff, he could not get the desired information. On 10.07.2023, the petitioner again went to the DEEO office but the strike had not ended by that time. In these circumstances, he could not join the post. Thereafter, he repeatedly requested for permission to join by sending e-mails to the Department from July 12, 2023 to August 23, 2023, Annexure P-16, but no response was received. Other letters, dated 24.07.2023, Annexure P-17 and 06.09.2023, Annexure P-18, were also sent in that regard, but to no effect.

3. Learned counsel for the petitioner has further submitted that petitioner's *bona fides* are established by the fact that he duly applied to the University for grant of extraordinary leave (EOL) without pay for one year for the purpose of joining the post, and the same was sanctioned to him, vide letter dated 10.05.2023, Annexure P-7. He has also got conducted his medical examination for the purpose from the office of Civil Surgeon, Kaithal, on 07.04.2023, Annexure P-8. In case he is not allowed to join, it will seriously prejudice his rights and deprive him of the post he has been duly selected, for no fault of his.

4. Learned State counsel, appearing on advance notice, contends that twice over the extension of joining time was granted to the petitioner, but he could not avail of the same. The last extension was granted vide letter dated 16.06.2023, still he could not join. She also submits that, as per instructions, the letter was sent to the petitioner

through e-mail also on 19.06.2023, therefore, his stated reasons for not joining the post cannot be accepted.

5. Heard.

6. Undisputedly, the petitioner is working as Assistant in the University. He had reasons to seek extension of time for joining the post, pursuant to appointment letter dated 28.11.2022. Accepting the same, he was given extension to join by the respondents up to 30.04.2023, but the letter granting the same was conveyed to him after the extended time was over, making the extension otiose. The mistake was realised, and despite rejecting the second extension sought by the petitioner, he was allowed to join the post immediately, vide letter dated 16.06.2023, with the condition that in the event of not joining, the appointment shall be deemed to have been cancelled. The condition is unreasonable, and amounts to robbing the petitioner of the opportunity to avail the extended joining time, especially because he is already working with another employer and would naturally require a reasonable joining time to get relieved from there.

7. Without going into the veracity of reasons for not joining the post immediately as put forth by the petitioner, the fact remains that the respondents have been behaving arbitrarily and whimsically. On the one hand, they accepted the petitioner's request for extension of joining time, finding the same genuine; on the other, themselves made sure the extensions could not be availed of by him, as discussed herein above. This cannot be permitted. The petitioner has

prima facie established his *bona fides* on record by applying for extension soon on getting the appointment letter, and also completing the requirements of EOL and medical examination for the purpose of joining. Therefore, there is no reason to deny him reasonable time to join the post he has been duly selected for.

8. Accordingly, the petition is allowed; the impugned condition in the letter, dated 16.06.2023, requiring the petitioner to join the post of TGT-English (Rest of Haryana) at Government High School, Kutabpur, Kaithal (2222) immediately, is hereby set aside, and the petitioner is permitted to join within two weeks from today. There shall be no order as to costs.

(Tribhuvan Dahiya)
Judge

November 03, 2023
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No