

CWP-11864-2021 (O&M) and
other connected matters

2024:PHHC:123352



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(236)CWP-11864-2021 (O&M)
Date of Decision : 09.09.2024

Jaspreet Singh...Petitioner

Versus

State of Punjab and others

...Respondents

(236/2)CWP-7037-2021 (O&M)

Jaspreet Singh...Petitioner

Versus

State of Punjab and others

...Respondents

(236/3)CWP-28561-2019 (O&M)

Savi...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Saurabh Arora, Advocate for the petitioner
in CWP-11864-2021 and CWP-7037-2021.

Mr. Gurmeet Singh Saini, Advocate for the petitioner
in CWP-28561-2019.

Mr. Swapan Shorey, Deputy Advocate General, Punjab.



Harsimran Singh Sethi J. (Oral)

1. By this common order, three writ petitions, the details of which have been given in the heading, are being decided as all these petitions involve the same question of law on similar facts.

2. For the sake of convenience, the facts are being taken from CWP No. 11864 of 2021.

3. In the present petition, the grievance being raised by the petitioner is that the services of the petitioner have been terminated vide order dated 09.06.2021 (Annexure P-19) and the said order is totally arbitrary and illegal, hence, the same may kindly be set-aside.

4. The facts are that the petitioner competed for the post of Art and Craft Teacher as advertised on 07.01.2016. The petitioner's merit was ascertained as 53.4128 and it is the assertion of the petitioner that the same was enhanced to 69.9512 and on the basis of the merit of 69.9512, the petitioner was appointed against one of the advertised post of Art and Craft Teacher and petitioner joined as such on 30.12.2016. The petitioner also completed the period of probation.

5. One, Smt. Savi, filed CWP No. 28561 of 2019, wherein, she challenged the appointment of the petitioner on the ground that she had a better merit than the petitioner and was entitled to be appointed and in the writ petition, she had alleged that the actual merit of the petitioner is 53.4128 and not 69.9512, hence, as Smt. Savi had a better merit, she should have been given appointment as compared to the petitioner.



6. After the filing of the writ petition by Smt. Savi being CWP No. 28561 of 2019, the respondents conducted an enquiry into the issue and ultimately, it was found that the actual merit of the petitioner was 53.4128 and not 69.9512, which was wrongly mentioned to get him appointed, hence, petitioner should be ousted from service after due process and Smt. Savi be appointed.

7. After the said preliminary enquiry, the petitioner was charge-sheeted, which charge-sheet was challenged by the petitioner but as no interim order was granted in favour of the petitioner, the respondents conducted an enquiry and in the departmental enquiry it was found that the actual merit of the petitioner was 53.4128 and not 69.9512 hence, as the merit of candidate Smt. Savi was more than that of the petitioner, the services of the petitioner were liable to be terminated by the respondents and ultimately, after following due process, the impugned order was passed terminating the services of the petitioner vide order dated 09.06.2021 (Annexure P-19).

8. Learned counsel for the petitioner argues that once the petitioner was appointed and he was also confirmed, the termination of the services cannot take place, hence, petitioner should have been allowed to continue in service.

9. Upon notice of motion, the respondents have filed the reply, wherein, the respondents have stated that the merit of the petitioner was manipulated from 53.4128 to 69.9512, which fact has already come into light after the preliminary enquiry as well as the departmental enquiry, hence,



the petitioner was wrongly appointed at the cost of the candidate Smt. Savi, hence, his services have been terminated so as to rightfully offer appointment to Smt. Savi on the post of Art and Craft Teacher.

10. I have heard learned counsel for the parties and have gone through the record with their able assistance.

11. In the present case, the prime contention of the respondents is that the merit of the petitioner was manipulated. The merit of the petitioner was 53.4128 and with the said merit, the petitioner could not have been selected against the post for which he competed and it is only, by the manipulated merit of 69.9512, that the petitioner got selected. Once, the said charge has already been proved in the departmental enquiry, this Court cannot go behind the enquiry proceedings so as to say that the selection of the petitioner was bona fide. Once, the merit has been manipulated, the appointment of the petitioner cannot be bona fide so as to allow the petitioner to have the benefit of the said manipulated merit.

12. Learned counsel for the petitioner submits that once the petitioner was appointed and has already been allowed to complete the probation, keeping in view the judgment of the Hon'ble Supreme Court of India in Civil Appeal Nos. 5318-5319 of 2013 titled as ***Vikas Pratap Singh and others Vs. State of Chhattisgarh and others***, decided on 09.07.2013, the petitioner is entitled to continue in service.

13. Qua the above contention, it could be observed that the facts and circumstances of the present case are entirely different than that of ***Vikas Pratap Singh and others (supra)***. Once, in the present case, it has come to



light that the merit of the petitioner has been manipulated so as to grant him appointment by giving him more marks, the same cannot be sustained and the judgment in *Vikas Pratap Singh and others (supra)* will not come to the rescue of the petitioner herein.

14. Keeping in view the above, the impugned order terminating the services of the petitioner, Jaspreet Singh needs no interference by this Court and the present petitions being CWP-11864-2021 and CWP-7037-2021 are dismissed.

15. As far as CWP No. 28561 of 2019 is concerned, once the respondents themselves have terminated the services of the selected candidate on the ground that he was not eligible keeping in view his original merit and the claim of the petitioner is that she has a better claim to be appointed as Art and Craft Teacher, the respondents are directed to consider the claim of the petitioner for appointment as an Art and Craft Teacher against the post vacated by Jaspreet Singh.

16. Let the consideration with regard to the grant of appointment to the petitioner in case she is eligible in all respects be finalized and in case, it is found that the petitioner is to be granted appointment, appropriate benefit be given. In case, the petitioner Smt. Savi is given the benefit, the same will relate back to the date when Jaspreet Singh was appointed though notionally upto the date of filing of the petition i.e. 2019 and thereafter, even the arrears of salary will be admissible to the petitioner-Savi in case she is found entitled for appointment.



- 17. Petition being CWP No. 28561 of 2019 is disposed of in above terms.
- 18. Pending miscellaneous application, if any, also stands disposed of.
- 19. A photocopy of this order be placed on the file of connected cases.

September 09, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No