

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CWP-13969-2020
Date of decision: 29.02.2024

Nishu Jain ...Petitioner

vs.

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. R.S. Kalra and Ms. Mona Yadav, Advocates
for the petitioner.

Mr. Sanampreet Singh, DAG, Punjab.

AMAN CHAUDHARY. J.

C.M. No. 2306-2024

Application is allowed as prayed for.

Accordingly, regularization certificate dated 10.09.2023 (A-1) is
taken on record.

CWP No. 13969-2020

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is for directing the respondents to consider the case of petitioner for regularization of services, in pursuance to the conditions stipulated in the appointment order dated 22.02.2013 (Annexure P-2) with a further prayer for directing the respondents to consider the case of the petitioner for regularisation from the date similarly situated persons have been granted the benefit of regularisation viz from 02.04.2016, along with all consequential benefits including seniority, promotion, regular pay scales, arrears of pay with interest at

the rate of 18% per annum.

2. Learned counsel would submit that pursuant to an advertisement dated 07.05.2011 (Annexure P-1), the petitioner was appointed vide order dated 22.02.2013 (Annexure P-2) as Science Mistress, on contract basis, initially for a period of three years, which is to be continued subject to satisfaction of work and conduct as Science Mistress, after her documents were scrutinized. As per the terms and conditions, her services were likely to be regularized after 03 years. The requisite qualification for appointment was Graduation and B.Ed. The services of other similarly situated employees were regularized but the claim of the petitioner for regularization was not considered, as she was possessing the higher qualification of M.Sc. from outside State of Punjab i.e. Vinayaka Mission University, Tamil Nadu, for which she was awarded 5 marks at the time of interview. However, during the pendency of the present writ petition, her services have been regularized w.e.f.15.01.2016, the date that of her colleagues, vide order dated 10.09.2023 (Annexure A-1) but she has not been granted the financial benefits from the date of her regularization on the premise that the issue with regard to the degree of M.Sc. through the said University is pending in LPA-1843-2019 Government of Punjab vs. Karamjit Kaur, which is not tenable inasmuch as the said degree was not basic qualification, as the same is possessed by the petitioner. Thus, once the regularisation has been granted to the petitioner w.e.f 15.01.2016, the petitioner is also entitled to monetary benefits w.e.f the date she was regularized. Learned counsel submits that the petitioner is ready to furnish an undertaking, as the respondents may deem appropriate. He otherwise refers to the judgments in **Varinder Hans vs. Union of India and others**, 2019 (4) S.C.T 513, **Sarabjit Kaur Dhaliwal vs. Punjab Agricultural University, Ludhiana**, 2003 (4) SCT 132 and **Dr. M.S. Mudhol vs. Shri S.D. Halegkar**, 1993 (4) S.C.T. 226, **Buddhi Nath Chaudhary vs. Abahi Kumar**, 2001 (2) SCT 352 and **State of**

H.P. and others vs. Dorje Tandup, MANU/HP/1037/2022, to contend that it has been held that where there is no misrepresentation on the part of a candidate of seeking appointment to the post, her services cannot be dispensed with for want of requisite qualifications.

3. Learned State counsel on the other hand has submitted that the issue regarding the qualification, on basis of which, additional marks were given to the petitioner, being subjudice, she was rightly not granted the financial benefits.
4. Having heard the learned counsel for the parties, once the respondents have, during the pendency of the present petition itself, decided and granted the substantive relief of regularisation as claimed, to the petitioner, there appears to be no justification to withhold the benefits accruing therefrom, on the premise of the pendency of the afore-mentioned LPA. The petitioner being an employee working for the last 11 years, the interest of the State can be protected by directing it to release the amount to her, on an undertaking being furnished by the petitioner by way of an affidavit, that the same shall remain subject to the outcome of the LPA.
5. The present petition stands disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

29.02.2024
G Arora

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