

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-14133-2018 (O&M)
Date of decision: 07.05.2024

Jaswinder Kaur

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kapil Kakkar, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab.

AMAN CHAUDHARY, J. (Oral)

1. The prayer made in the present petition is for directing the respondents to consider the claim of the petitioner for appointment to the post of Educational Service Provider (English).

2. Learned counsel contends that the petitioner is admittedly at serial No.7 of the waiting list and submits that there are 28 posts of English Education Service Provider (Female) that are vacant as depicted in RTI information dated 05.04.2010, Annexure P-19. It is his categoric submission based on instructions that the said posts are still vacant with regard to the advertisement in question. He submits that the issue with regard to the male candidates aspiring for the same post, the Coordinate Bench of this Court in **Dilpreet Singh vs. State of Punjab and others**, CWP-3206-2014, decided on 13.02.2020, directing consideration of appointment to the petitioners therein. Thereafter, the Coordinate Bench in **Tejinder Kumar and others vs. State of Punjab and others**, CWP-14655-2018, allowed the writ on 29.01.2024, in terms of the aforesaid judgment on the basis of the fact that the petitioner

therein was lower in merit than Tejinder Kumar and others, who were in the

waiting list and there were 32 posts lying vacant. Learned counsel also submits that the petitioner had even on previous occasion approached this Court in LPA-1097-2012 as appellant No.2 in CWP-4379-2008, which was disposed of on 31.10.2012 alongwith LPA-1046-2012 filed by Dilpreet Singh, Annexure P-14, holding that the corrigendum dated 31.08.2007 prescribing M.A. (English) with B.Ed. was introduced, did not relate to qualification prescribed of graduation with English as an elective subject in all the three years. The relevant paras of **Tejinder Kumar** (supra) read thus:-

“8. In the case of Dilpreet Singh (supra), the Court passed the following order:

“9. If that be the factual position, other candidates having not even approached this Court with any grievances since the year 2010 till date, would not have a right for consideration for appointment to the post, especially in the light of the fact that the petitioner has all through been agitating his claim, who are although higher in merit than the petitioner. It is well settled that by the passage of time, right if not agitated would lose its shin and cannot be pressed into service on equity while approaching this Court. Otherwise also, if a suit is now preferred, the same would be barred by limitation.

10. In view of the above, the present writ petition is allowed by quashing the impugned order dated 12.11.2013 (Annexure P-15) Direction is issued to the respondents to consider the claim of the petitioner for appointment to the post of English Master against the available post as per the advertisement dated 29.08.2007 within a period of one month. In case the petitioner is found eligible for appointment to the post, he be issued appointment letter within a further period of three weeks.”

9. The order was not challenged by the State and Dilpreet Singh was offered appointment as is apparent from Annexure P-30 placed on record with the application moved by the petitioners. The appointment order was issued on 28.10.2020 vide offer letter No.20/50-2020 Estt 2 (6), which is as under:

“On the recommendation of the recuritment directorate in light of decision of Hon'ble High Court dated 13.02.2020 in CWP-3206 OF 2014, on your selection as education provider, you are hereby offered appointment against the vacant post of English master, on a consolidated salary of Rs. 5400/- on contract basis As per the record of the select list, your particulars as under:-

Regd	Merit	Date	of	Category	Place	of	Remarks
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No.	Marks	Birth		Posting	
M010-000169	19.755	29.06.1986	General	Will be allotted after acceptance of offer	-

10. It is also an admitted position that there are 32 posts lying vacant in the subject of English which have yet not been filled. No reasons are coming forward on behalf of the respondents that in spite of the LPA having been allowed and the earlier controversy having been settled, why the appointments were not offered to persons who were there in the select list/waiting list. On account of inaction on the part of the respondents, the claim of the petitioners cannot be defeated.

11. Keeping in view that the offer of appointment was issued to Dilpreet Singh, similar offer of appointment shall now be issued to the petitioners if they are otherwise qualified. Necessary orders be passed within a period of one month from today.”

3. Learned State counsel despite his best efforts has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.
4. In view of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Tejinder Kumar** (supra).

(AMAN CHAUDHARY)
JUDGE

07.05.2024
Hemant

Whether speaking/reasoned

Whether reportable

:

:

Yes / No

Yes / No