



CWP-4313-2016 (O&M)

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

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**CWP-4313-2016 (O&M)
Date of Decision :27.08.2024**

Abdus Sattar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Surmukh Singh, Advocate for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

Mr. Anupam Singla, Advocate for respondent No.3.

Mr. Rajpal, Singh, Advocate and
Mr. G.S. Verma, Advocate for respondents No.4 and 5.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, challenge is to the selection and appointment of respondents No.4 and 5 to the post of Primary Urdu Teacher under the Rastriya Madhyamik Shiksha Abhiyan, which is now known as SMAGRA Shiksha Abhiyan.

It may be noticed that post of Primary Urdu Teacher was advertised vide advertisement dated 02.07.2010 (Annexure P/5) issued by the Rastriya Madhyamik Shiksha Abhiyan Authority. The petitioner as well as private respondents competed for the said post and private respondents

No.4 and 5 were selected and appointed to the post in question under the

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said scheme.

After a period of 06 years of the selection, the petitioner filed the present petition, challenging the selection and appointment of respondents No. 4 and 5 on the ground that certificate produced by them from All India Talim Ghar, Lukhnow could not have been taken into account as valid certificate and hence, the selection of the private respondents to the post in question should be set aside.

During the pendency of the present petition, the employees along with private respondents No.4 and 5, who were working with the SMAGRA Shiksha Abhiyan have been absorbed by the Government of Punjab keeping in view the notification issued by the respondent-State in the year 2018 and from the last 06 years, private respondents No.4 and 5 are working in the Department of Education, Punjab.

Learned counsel for the petitioner submits that the respondents No.4 and 5 could not have been selected on the post in question on the basis of the certificate issued by All India Talim Ghar, Luchnow hence, their appointment is liable to be set aside.

Upon notice of motion, the respondents have filed reply wherein, it has been mentioned that keeping in view the certificate issued to the private respondents No.4 and 5, they were found eligible and were appointed to the post in question and till the year 2018, they were working with SMAGRA Shiksha Abhiyan, whereafter, they have been absorbed in the Education Department, Government of Punjab and hence, the present petition, which was filed after 06 years of selection to the post in question coupled with the fact that respondents No.4 and 5 are working on the post in

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question from the last 14 years and there was no misrepresentation on their part, prayer of the petitioner for setting aside the selection and appointment of private respondents No.4 and 5 may kindly be dismissed.

Learned counsel for the respondent-State further submits that since year 2018, private respondents No.4 and 5 are working with the respondent-State.

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

It may be noticed that keeping in view the advertisement in question, which was issued in the year 2010, the claim of the eligible candidates including that of petitioner as well as private respondents No.4 and 5 was considered and private respondents No.4 and 5 being better suited were selected and appointed to the post in question. The petitioner did not raise any grievance for a period of 06 years from the date of selection of the private respondents and present writ petition was only filed in the year 2016 and thereafter, keeping in view the notification issued by the State of Punjab in the year 2018, private respondents No.4 and 5 have also been absorbed in the Education Department, Punjab and the private respondents are working with the respondent-State of Punjab since then. Once, the petitioner did not challenge the selection of the private respondents No.4 and 5 at the relevant time and the same was challenged after a period of 06 years, the same cannot be accepted especially, when eligibility of the private respondents No.4 and 5 was ascertained by the respondent Rastriya Madhyamik Shiksha Abhiyan Authority and there was no misrepresentation on the part of the private respondents to claim the benefit of appointment by withholding any



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information from the employer when they were recruited in the year 2010.

It is a settled principle of law that in case, any person is aggrieved against any action, he/she has to avail appropriate remedy within a period of 03 years as after the period of 03 years, even the void orders cannot be challenged keeping in view the judgment of the Hon'ble Supreme Court of India in Gurdev Singh *Civil Appeals No.1852-1989 & No.4772-1989 titled as, State of Punjab and others vs. Gurdev Singh and Ashok Kumar, decided on 21.08.1991.*

Keeping in view the fact the there was delay in challenging the selection and appointment of the private respondents No.4 and 5 and they have also been absorbed in the Government of Punjab, which orders are not under challenge even in the present petition, no ground for interference by this Court is made out and the present writ petition is accordingly dismissed.

Civil miscellaneous application pending, if any is also disposed of.

August 27, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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