

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223/2

CWP No. 28311-2017
Date of decision: 29.02.2024

Jatinder Singh ...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. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is for quashing the order/letter dated 04.07.2017, Annexure P-9, with a further prayer for directing the respondents to consider the case of petitioner for regularization of services as Science Master, in pursuance to the condition No.2 stipulated in the General Conditions contained in the Advertisement dated 07.05.2011 Annexure P-1, along with all consequential benefits including arrears of salary for the entire period w.e.f. the said date.
2. Learned counsel would submit that pursuant to an advertisement dated 07.05.2011, Annexure P-1, the petitioner was appointed vide order dated 31.12.2012, Annexure P-2 as Science Master, on contract basis, initially for a period of three years, which is to be continued subject to satisfaction of work and conduct as Science Master, after his documents were scrutinized. As per the terms and conditions, his services were likely to be regularized after 03 years. The

other similarly situated employees were regularized but the claim of the petitioner for regularization was not considered, as he was possessing the higher qualification of M.Sc. through distance education from outside State of Punjab i.e. Vinayaka Mission University, Tamil Nadu, for which he was awarded 7.37 marks at the time of interview, which even if not included, still he makes it, having scored 49.399, thus, higher in merit than the last selected candidate, who secured 48.87. However, during the pendency of the present writ petition, his services have been regularized w.e.f. 15.01.2016, the date that of his colleagues, vide order dated 18.08.2023, but he has not been granted the financial benefits from the date of his 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, he is also entitled to monetary benefits w.e.f the date he was regularized. 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, his 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, he was rightly not granted the financial benefits.

However, while relying on para 5 of the written statement, contends that Balwinder Singh, who secured 48.87 marks, has been appointed under peculiar circumstances, thus cannot be considered as the genuine last selected candidate on the basis of merit.

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 him, 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