



CWP-12269-2023

-1-

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

251

CWP-12269-2023

Date of Decision: 03.04.2025

Poonam Rani

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Anil Rathee, Advocate, and
Mr. Nitin Rathee, Advocate for the petitioner

Mr. Harish Nain, AAG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed *inter alia* seeking a writ of *mandamus* directing the respondents to re-engage the petitioner as Guest Teacher Hindi in view of directions issued by the Supreme Court in Civil Appeal No.8993 of 2018, dated 28.08.2018.

2. Facts relevant to decide the matter are, the petitioner was appointed as Guest Teacher Hindi at Government High School, Frain Kalan, District Jind on 16.10.2006, and continued working up to 21.05.2007, when her services were terminated on joining of a regular employee. Her claim for being considered a displaced Guest Teacher was declined by referring to the Policy - 'Guidelines for temporary adjustment of displaced guest teachers' dated 27.10.2010, vide order dated 10.01.2012, Annexure P-11. The order was challenged by the petitioner before this Court by filing Civil Writ Petition



No.6899 of 2012, which was dismissed vide order dated 28.10.2013. The appeal filed against the same was also dismissed by a Division Bench, vide order dated 13.05.2014, passed in Letters Patent Appeal No.2064 of 2013. Not contented, the petitioner filed SLP against the decision which was disposed of by the Supreme Court, vide order dated 28.08.2018, passed in Civil Appeal No.8993 of 2018; which reads as under:

Leave granted.

The main grievance of the appellant is that the High Court by the impugned judgment relied on the policy of the respondent State dated 27.10.2010 which stipulated a requirement of 220 days of experience of teaching for the purpose of re-engagement.

According to the appellant, and she seems to be right in her contention, that the policy dated 27.10.2010 was not applicable or relevant in her case, as she was governed by the policy dated 2.12.2008 and we find that the appellant's case was covered by the said policy. Therefore, it is clear that the High Court fell into error in relying on the policy dated 27.10.2010.

However, it is not possible at this juncture to grant the relief of re-engagement sought by the appellant in view of the counter affidavit which states that the workload of Hindi teachers in the Department is 1478 teachers and there is over-employment since 2847 teachers have been employed.

According to the respondents, 643 guest Hindi teachers have already been declared as surplus.

However, in the circumstances, we consider it appropriate to direct that in case guest teachers are employed by the respondent State, preference shall be given to the claim of the appellant for re-engagement.

The appeal is, accordingly, disposed of.

3. In terms of these directions in the Civil Appeal, the petitioner's claim was considered by the respondents and rejected on the ground that as per



directions issued by the Supreme Court in another case, SLP No.CC5956-5957/2012, on 30.03.2012, '*...no fresh appointments of 'Guest teachers' will be made from 1st April, 2012*'. And the Department is only making recruitment of contractual manpower in terms of 'The Deployment of Contractual Persons Policy, 2022' (for short 'Policy of 2022') as per instructions issued by the Chief Secretary to that effect, dated 30.06.2022. Accordingly, as specifically stated in the reply filed on behalf of respondents no.1 to 4, dated 06.05.2024, '*...1040 posts of Hindi Teacher have been sent to Haryana Kaushal Rozgar Nigam Limited (HKRNL) on 15.12.2023 and 106 posts of Mewat cadre have been sent to Haryana Staff Selection Commission (HSSC) on 17.02.2023 for employing new contractual teachers.*' Therefore, the petitioner's claim cannot be considered for re-engagement.

4. In this factual background, learned counsel for the petitioner has contended that the petitioner's claim has been rejected in violation of the order passed by the Supreme Court. There is no dearth of vacant posts in the Department against which the petitioner can be considered for re-engagement; the same has not been done on unfounded or baseless grounds. Merely because the respondents have decided to engage the contractual manpower through the Nigam now, it cannot be a ground to reject her claim which is based on the directions earlier issued.

5. Learned State counsel, however, contends that the directions issued in the Civil Appeal have not been violated in any manner, as in terms therewith the Department was required to re-consider the petitioner's claim for re-engagement on preference basis in case Guest Teachers were to be employed; but as per the Policy in vogue Guest Teachers are not being employed. The only mode of recruitment of contractual manpower is through



the Nigam in terms of the Policy of 2022. The petitioner is at liberty to apply under the same, and her claim will be considered based on the criteria of selection laid down as per merit.

6. Submissions made by learned counsel for the parties have been considered.

7. It is apparent on record that the petitioner was engaged as Guest Teacher Hindi on 16.10.2006, and her services were terminated with effect from 21.05.2007 on account of joining of a regular employee. The rejection of her case for re-engagement in terms of Policy, dated 27.10.2010, was held illegal by the Supreme Court as it was required to be decided in the light of earlier Policy dated 02.12.2008. However, the relief of re-engagement could not be granted to her due to the counter-affidavit filed by the State that there was over-employment in the Department, since against the workload of 1478 Hindi Teachers, 2847 had already been employed. In these circumstances, the direction was issued to give preference to the petitioner's claim for re-engagement whenever Guest Teachers were to be employed. The ground of rejecting her claim by the respondents now is discontinuation of the Policy to engage Guest Teachers by the Department, and the decision instead to engage contractual teachers through the Nigam in terms of the Policy of 2022. It is also stated that there is no vacancy as 'the posts of Hindi Teacher have been sent to the Nigam on 15.12.2023 and also to the Staff Selection Commission on 17.02.2023 for employing new contractual teachers.' Meaning thereby, posts are vacant and Hindi Teachers are still being appointed on contractual basis, but through another agency/the Nigam under the Policy of 2022. The engagement of contractual manpower through the Nigam is essentially of similar nature as was the engagement of Guest Teachers by the Department earlier; both are



contractual for a limited period. Resultantly, the altered mode of engaging contractual teachers cannot be a ground to frustrate the directions given by the Supreme Court to give preference to the petitioner's claim for re-engagement whenever such teachers (Guest/contractual) are to be employed. Besides, it cannot be lost sight of that the direction had to be issued because at the given time there was no vacant post against which the petitioner could have been re-engaged. It is an admitted position on record that as on 06.05.2024, 1040 vacant posts of Hindi teachers have been sent to the Nigam for employing new contractual teachers; and it is not the respondents' case that all the posts have been filled up. Accordingly, there is no impediment in re-engaging the petitioner in contractual employment against one such post in due deference to the directions issued by the Supreme Court vide its order dated 28.08.2018.

8. In view thereof, the petition is allowed, and the respondents are directed to consider the petitioner's claim for re-engagement and offer her appointment against a vacant post of Hindi teacher on contract basis with the terms and conditions based upon the extant policy for engaging contractual teachers in the Department. These directions shall be carried out within a period of two weeks of receiving a certified copy of this judgment.

(TRIBHUVAN DAHIYA)
JUDGE

03.04.2025

Payal

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No