



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

CWP-25613-2022

Date of Decision: 18.02.2025

Sukhvinder Singh

.....Petitioner(s)

Versus

Chandigarh Administration and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sunil K. Nehra, Advocate,
for the petitioner.

Mr. Tanmoy Gupta and Mr. Prateek Rathee, Advocates,
for respondent Nos.1 and 2.

Mr. Sachin Kalia, Advocate,
for Mr. R.S. Cheema, Advocate,
for respondent No.3.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition filed under Articles 226 and 227 of the Constitution of India is seeking setting aside of Memo/Letter dated 19.10.2022 (Annexure P-23) whereby respondent-U.T. Administration has refused to grant approval of his appointment as Library Attendant (Group-D post).

2. This is second round of litigation. The petitioner, pursuant to advertisement of DAV College, applied for the post of Library Attendant. An interview was conducted where nominee of Chandigarh Administration was present. He was selected, however, his appointment was not approved by Chandigarh Administration which compelled him to approach this Court by way of CWP-3201-2016, Sukhvinder Singh vs. Chandigarh Administration and



others. It is apt to notice that on account of denial of approval by Chandigarh Administration, his salary was also withheld. This Court passed interim order dated 10.07.2019 in CWP-3201-2016, which is reproduced as below:-

“Learned counsel for the petitioner submits that appointment of the petitioner as Library Attendant was made on the basis of recommendation of the Selection Committee, wherein the nominee of the Chandigarh Administration was present. Notwithstanding, till date, neither formal approval to the appointment of the petitioner has been accorded by the Chandigarh Administration nor the salary of the petitioner is being paid.

Learned counsel appearing for respondent No.3-College submits that in anticipation of the approval of appointment of the petitioner, an amount of Rs.3 lakhs has been disbursed.

In the premise, in order to resolve the controversy respondent No.2-Director Higher Education, Chandigarh Administration is directed to be personally present in Court on the next date of hearing.

In the event, if the salary due to the petitioner is approved or disbursed in the meantime, then presence of respondent No.2 would not be necessary on the date fixed.

Adjourned to 03.09.2019.”

3. The writ petition came to be disposed of vide order dated 03.09.2019 alongwith CWP-25599-2015. 03.09.2019 order being a short order, is hereby reproduced as below:-

“Pursuant to the order dated 10.07.2019, passed by this Court, a copy of letter dated 20.08.2019, has been handed over, in course of hearing by learned counsel representing Chandigarh Administration-respondents No.1 and 2, which reflects that Principal of DAV College, Sector-



10, Chandigarh-respondent No.3 has been requested to release the remaining dues of the petitioners with effect from their date of joining till date, under intimation to the Director Higher Education, Chandigarh Administration. It is further stated therein that after the reimbursement, the College may raise its claim from the Department, in accordance with the Instructions of Chandigarh Administration.

In the premise, writ petition is disposed of with a direction to the Principal, DAV College, Sector-10, Chandigarh-respondent No.3 to disburse the outstanding dues of the petitioners in terms of the letter, ibid within a period of 60 days from the date of receipt of a certified copy of this order.

It is also made clear that after the disbursement as and when College raises its claim to the Chandigarh Administration, the same would be processed within a period of 30 days thereafter, without being influenced by the order dated 05.02.2016 endorsed on 09.02.2016 impugned herein in CWP No.3201 of 2016 (Annexure P-10).

Disposed of in above terms.”

4. The respondent-College released outstanding salary of the petitioner treating him as regular employee. The respondent-College requested the Administration to disburse salary already paid to the petitioner. The respondent-College is a 95% Government Aided College. The respondent-Administration reimbursed salary paid by college to the petitioner.

5. The college made payment to petitioner as a regular employee and Administration reimbursed its share as per scheme of Government aided Schools/Colleges. Despite said fact, the respondent vide impugned order dated 19.10.2022 rejected claim of the petitioner. The order dated 19.10.2022 is reproduced as below:-



*DIRECTORATE OF HIGHER EDUCATION
CHANDIGARH ADMINISTRATION
(COLLEGE-II BRANCH)
Additional Deluxe Building, 4th floor, Sector-9
Chandigarh-160 009*

Memo No.785-DHE-UT-C5-12(2)10A/6537 Dated: 19/10/22

To

*The Principal,
DAV College,
Sector-10, Chandigarh*

*Subject: Civil Writ petition No.3201 of 2016 titled
Sukhvinder Singh V/s Chandigarh
Administration & Ors.*

Reference your office Memo No. 19281 dated 6/5/2022 vide which as copy of representation submitted by Sh. Sukhvinder Singh alongwith a copy of Order dated 28/04/2022 passed by Hon'ble Punjab & Haryana High Court, Chandigarh in Civil Writ Petition No.3201 of 2016 has been sent to this office for necessary action in compliance of said order and further course of action on the part of the college may be conveyed.

In this context, it is intimated that after receiving the order of Hon'ble High Court, the matter regarding approval of appointment in respect of Sh. Sukhvinder Singh as Library Attendant, was taken up with the Finance Department as well as Law Department and in the latest advice conveyed vide U.O.No.27/4/13-UTFII(12)-2022-13485 dated 09/9/2022, the Finance Department has reiterated their earlier advice take decision keeping in view the instruction issued by the Chandigarh Administration letter No.27/4/9-UTFII(12)-2014/9421 dated 07.11.2014 which provides that "All the Group-D posts, as and when

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fallen vacant are filled up through outsourcing after following proper procedure".

Therefore, as per advice given by Finance Department Chandigarh Administration conveyed vide U.O.No.27/4/13-UTFII(12)-2022-13485 dated 09/9/2022, the request of approval of appointment in respect of Sh. Sukhvinder Singh as Library Attendant, cannot be acceded to, as the permission has already been granted to outsource the post of Library Attendant on DC rates as per instructions issued by the Finance Department vide letter dated 07.11.2014 issued vide this office Order No. 1565-DHE-UT-C4-12(2)10A dated 9/2/2016.

*Registrar Education (C),
For Director Higher Education,
Chandigarh Administration,"*

6. Mr. Tanmoy Gupta and Mr. Prateek Rathee, Advocates submit that this Court has not set aside order dated 08.06.2015 whereby Chandigarh Administration had adopted Punjab Government Instructions dated 18.03.2011 to the effect that Group-D posts in Government Aided Privately Managed Colleges would be filled up through outsource. The College was required to fill up Group-D post through outsource whereas petitioner was selected through regular process. The act of College was contrary to Instructions, thus, the Administration did not grant approval.

7. From the perusal of record, it is evident that as per order dated 08.06.2015 of Chandigarh Administration, Group-D post in Government Aided Privately Managed College has to be filled up through outsource after following proper procedure. The College in the instant case issued advertisement and thereafter conducted interview. The said procedure is followed for regular



appointment. Nominee of the Chandigarh Administration was part of the interview. The Administration granted permission to advertise the post. In this way, the Administration acted prior to issuance of advertisement as well as during the process of selection. No objection was raised at that stage rather there was implied as well as express consent of the Administration. This Court vide interim order dated 10.07.2019 as well as on 03.09.2019 directed the respondent to release petitioner's salary and Administration was asked to reimburse as per applicable Policy. The respondent-College is paying him as regular employee and Administration is reimbursing the same. The respondent-Administration is relying upon its order dated 08.06.2015. As per said order, vacancy of Group-D post may be filled up through outsourcing and as per impugned order, salary should be as per D.C. rate. The petitioner is getting salary as regular employee and he was appointed after following procedure prescribed for regular appointment. The impugned order seems to be in stark contravention of earlier orders passed by this Court. The respondent has not assailed earlier orders passed by this Court, thus, was duty bound to comply in letter and spirit.

8. In the wake of above discussion and findings, instant petition deserves to be allowed and accordingly allowed. Impugned order is hereby set aside and respondent is directed to grant approval of appointment of petitioner as regular employee.

18.02.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
Yes