
(2014) 05 P&H CK 0240
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9846 of 2014

Parvinder Kaur

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 21-05-2014

Acts Referred:

Citation : (2014) 05 P&H CK 0240

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Dilbagh Singh, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Petitioner was appointed as a Guest Faculty Teacher at Government Senior Secondary School, Barwala (Panchkula) and she joined as such on 30.04.2007. Her services were dispensed with on appointment of a candidate, who was regularly selected on 24.05.2007. From 25.05.2007 onwards, the petitioner was adjusted as a Hindi Guest Teacher at Government Senior Secondary School Rattewali, District Panchkula as per the policy of the State. On 02.12.2008, Department of Education, Government of Haryana issued general guidelines with regard to adjustment of displaced Guest Faculty Teachers. On 09.01.2009, petitioner was verbally relieved by the Principal without assigning any reason and without giving any opportunity of hearing. The ground turned out to be that the petitioner did not possess the requisite qualification for appointment to the post of Hindi Teacher.

2. Petitioner thereafter got a letter dated 28.01.2009 issued by the Kurukshetra University, Kurukshetra, according to which three years Shastri course stood recognized as equivalent to B.A. (General). On receipt of this letter, petitioner submitted a representation to the Commissioner and Director General, School Education, Haryana requesting for adjustment and to allow her to rejoin the post in the light of the policy instructions dated 02.12.2008 issued by the

Department. When nothing was heard, petitioner approached this Court by filing CWP No. 6292 of 2009 which was dismissed by this Court vide order dated 27.04.2009.

3. Thereafter another policy decision was issued by the Department of Education which again dealt with displaced Guest Faculty Teachers and their adjustment at any other place of vacancy. Since, as per the petitioner, she possessed the qualification for the post of Hindi Teacher as well as the Sanskrit Teacher and, therefore, was better qualified than other Guest Faculty Teachers, who were continuing in service without any interruption, she sought information under the Right to Information Act which substantiated the contention and assertion of the petitioner with regard to the large number of less qualified teachers continuing on the post of Hindi Teacher Guest Faculty without any interruption, whereas the petitioner has been earlier relieved and thereafter not adjusted as per the policy of the Government of Haryana. Being aggrieved, petitioner again approached this Court by filing CWP No. 11356 of 2010 which was dismissed by this Court vide order dated 01.07.2010.

4. In the meanwhile, a Division Bench of this Court allowed the Guest Faculty Teachers to continue in service upto 31.03.2012 in the interest of studies of the students in view of large number of vacancies available in the State of Haryana vide order dated 30.03.2011. On the basis of the said order, petitioner again submitted a representation to the Director General, School Education requesting adjustment at any place as per the policy instructions of the Government of Haryana dated 31.03.2010. No reply to the representation dated 04.10.2011 submitted by the petitioner was received.

5. Against the order passed by the Division Bench of this Court in CWP No. 6090 of 2010, Tilak Raj Versus State of Haryana and others, decided on 30.03.2011 (Annexure P-8), State of Haryana and other Guest Faculty Teachers preferred Special Leave Petitions before the Supreme Court, in which initially the stay was granted and thereafter the same was disposed of by the Supreme Court vide order dated 30.03.2012 (Annexure P-9) by observing as follows:-

7. Having heard the learned Attorney General for India, Mr. Subramaniam and Mr. Vishwanathan, learned senior advocates, for the parties and also keeping in mind the submissions made by Mr. Vishwanathan, that the intention of the Division Bench of the High Court was that no further appointments of "Guest Teachers" should be made after 1st April, 2012, and that the vacancies should be filled up by posting and reposting teachers in the different institutions, we feel that the two things should really be kept separate, notwithstanding the apprehension voiced by Mr. Vishwanathan, that this could lead to continuance of appointment of "Guest Teachers".

8. We make it very clear that as directed by the Division Bench of the High Court, no fresh appointments of "Guest Teachers" will be made from 1st April, 2012. However, since students also cannot be made to suffer on account of the

delay in the appointment of regular teachers, we direct that the exercise indicated in the scheme, must be completed within the time specified in the scheme and no further extension or deviation therefrom will be permitted.

9. Till then, the "Guest Teachers" may be allowed to continue to function, as they have been doing so far.

10. We once again reiterate that recruitment of teachers on the regular basis shall not be supplemented or replaced by this procedure of appointing "Guest Teachers" for the sake of convenience.

11. The Special Leave Petitions are disposed of with the aforesaid observations.

12. There will be no orders as to costs.

6. It is further the contention of the counsel for the petitioner that CWP No. 3990 of 2012 was preferred in this Court which was disposed of by this Court vide order dated 10.09.2012 against which Special Leave to Appeal (Civil): CC 18434 of 2012, Neelam Kumari and others Versus State of Haryana and others was preferred, where it was observed that keeping in view the order dated 30.03.2012 passed by the Supreme Court, the Guest Teachers shall be allowed to continue to function as they are doing till the fresh appointments are made.

7. It has come to the notice of the Court that State of Haryana has preferred an application for extension of time to comply with the directions as were issued by the Supreme Court vide order dated 30.03.2012 (Annexure P-9), which is still pending consideration and further that the contempt petitions have been preferred for non-compliance of the orders because of continuing with the Guest Faculty Teachers which matter is also stated to be pending before the Supreme Court.

8. On the basis of these factual assertions, counsel for the petitioner contends that the petitioner is also entitled to be reinstated/adjusted in service as per the policy decisions of the Government of Haryana. This contention of the counsel for the petitioner cannot be accepted in the light of the earlier dismissal of two writ petitions preferred by the petitioner. Petitioner has also filed CWP No. 3445 of 2014 which was dismissed as withdrawn vide order dated 24.02.2014 granting liberty to her to file a detailed representation to the Director, Secondary Education, Haryana but that would not confer any right upon him to now approach the Court praying for a direction for reinstatement or for decision of the notice dated 28.03.2014 (Annexure P-13) which has been served by the petitioner through the counsel. The position as it emerges today is that the claim of the petitioner is barred by the principle of res judicata as her earlier writ petition challenging order of her relieving stands dismissed by this Court vide order dated 27.04.2009 passed in CWP No. 6292 of 2009 and the order dated 01.07.2010 passed in CWP No. 11356 of 2010.

9. The writ petition, therefore, stands dismissed.