

(2014) 06 P&H CK 0026

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 11894 of 2014 (O & M) and C.M. No. 7165 of 2014 in
C.W.P. No. 3622 of 2014

Sumitra Bishnoi

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 09-06-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule I

Citation : (2014) 06 P&H CK 0026

Hon'ble Judges : Mahesh Grover, J;Jaspal Singh, J

Bench : Division Bench

Advocate : Ashish Chaudhary, Advocate in C.W.P. No. 11894 of 2014 and Shri H.N. Sahu, Advocate in C.M. No. 7165 of 2014 in CWP No. 36722 of 2014, Advocate for the Appellant; H.N. Mehtani, Advocate for the H.P.S.C, Advocate for the Respondent

Judgement

Mahesh Grover, J.—By this order I will dispose of C.W.P. No. 11894 of 2014 and CM. application filed in C.W.P. No. 3622 of 2014.

2. The controversy raised herein has somewhat been settled earlier when some of the persons who were similarly placed as the petitioners herein approached this Court with a similar grievance.

3. The petitioners herein as also the other persons who had approached this Court earlier, were holders of Ph.D. degrees and were desirous of being considered for the posts of Assistant Professors advertised by the Haryana Public Service Commission. One of the conditions imposed by the University Grants Commission (U.G.C.) was that for the post of Assistant Professor the passing of NET was essential and a relaxation was contemplated in the case of Ph.D. degree holders. This matter was elaborately dealt with by this Court in a decision rendered in C.W.P. No. 2386 of 2014 titled Rajeev and others v. State of Haryana and others decided on 19.2.2014. The petitioners having Ph.D. degrees to their credit were enabled to participate in the process without insistence of the

qualification of NET. The said writ petition was disposed of with the following observations:-

Under the above circumstances, action of the respondent-State is not justified. Accordingly, the writ petitions are allowed and the directions are issued to respondent-State that those candidates who have not passed the eligibility test but have the Ph.D. degree to their credit, be considered for the post of Assistant Professor. The petitioners are permitted to submit their applications within 10 days from today.

4. Thereafter a plethora of applications followed seeking extension of time granted by the Court as above and all these applications were allowed and time was extended. One such application has been moved in C.W.P. No. 3622 of 2014 as well which we propose to deal with in this order itself.

5. The Haryana Public Service Commission also moved an application seeking clarification as to whether the benefit of the order of this Court was to be restricted only to the petitioners who had approached this Court or was it to be made available to all the desirous candidates who were similarly placed. The said application was dismissed.

6. In the meantime, some persons approached this Court placing reliance on the aforesaid judgment in Rajeev's case (supra) and prayed for a similar benefit. The said writ petition was dismissed by the learned Single Judge on 24.4.2014 by passing order in C.W.P. No. 7568 of 2014 declining the benefit granted in Rajeev's case (supra) to the petitioners on the reasons which can be noticed below:-

Virtually, the intention of the Division Bench was quite clear and specific that it did not want to delay the process of selection and the minimum leverage was given and that too till 1.3.2014 to the petitioners in Rajeev's case (supra) and other connected cases, which were disposed of by a common order. The petitioner unfortunately has not approached either the Commission or the Court prior to the said date.

In view of the above discussion, finding no merit in the present writ petition, the same stands dismissed in limine.

7. The matter was then agitated before the Division Bench in L.P.A. No. 693 of 2014 where the view taken by the learned Single Judge was upheld. We may also refer to the reasoning which preceded the decision of the L.P.A. Bench as below:-

The order passed by the learned Single Judge is perfectly justified. The appellant kept on sleeping when advertisement was issued and never made an attempt to challenge the same as was done by many others. She never made an attempt to get benefit of the instructions issued by the University Grants Commission making a candidate having Ph.D. degree to his/her credit eligible for the post of Assistant Professor. Those having Ph.D. degree to their credit approached this Court and their writ petition was allowed on 19.2.2014. The decision taken was

even highlighted by the Press. Even then nothing was done by the appellant and she approached this Court in the last week of April, 2014.

8. The aforesaid extracts would thus indicate the foremost concern of the Court i.e. regarding the process being delayed on account of the belated attempts by the affected persons to approach this Court even though they were expected to be in the know of the judgment of this Court.

9. We notice however, that the Commission has not formalized the process so far and the last date for submission of the applications is stated to be 10.6.2014.

10. If the process has not been formalized, then the concern of this Court to ensure the completion of the process has been defeated, as equally lies in defeat the concern that prompted such an observation i.e. the paucity of teachers in schools/colleges and its impact on the career of the students.

11. We thus, feel that if the process has not been concluded so far, then could the H.P.S.C. justifiably have restricted the benefit of the order of this Court only to writ petitioners to exclude the other candidates having Ph.D. degrees to their credit without the essential NET prescribed as per the U.G.C. guidelines but non-petitioners. Evidently, the answer would have been in the negative. Once this Court has held that as per the U.G.C. guidelines, the candidates with Ph.D. degrees were eligible for consideration, then restricting the benefit only to those who have approached this Court would have been a travesty of justice more particularly when the process of selection has yet to be initiated.

12. We are thus of the opinion that it would be in the fairness and fitness of things if all the persons who are having Ph.D. degrees are granted the benefit of Rajeev's case (supra) provided they make an application positively within one week from today. It is made clear that no further application for extension of time shall be entertained and if any other person who is similarly situated, fails to apply within the time stipulated by the order of this Court, no further application or petition shall be entertained. The H.P.S.C. shall positively initiate the process of selection after a lapse of seven days from today as directed with a clear mandate that no further application of similar kind shall be entertained.

13. Shri H.N. Mehtani, Advocate who is present in Court, has been apprised of the order.

14. The order be given wide publicity so as to benefit the people who may have missed out in the process.

15. C.M. No. 7165 of 2014 in C.W.P. No. 3622 of 2014 is also thus allowed and similar time limit is granted in favour of the applicants.

16. We are also of the opinion that the courts would suffer the unnecessary bother of incessant and repetitive litigation if such a course is not adopted.

17. C.W.P. No. 11894 of 2014 stands disposed of.

18. A copy of this order be given Dasti under the signatures of the Special Secretary of this Bench.