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**Even Otherwise in Pursuance to the Appointment Letter Dated Vs. State of Punjab and Others --respondents**

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**SooperKanoon Citation : [sooperkanoon.com/1065178](http://sooperkanoon.com/1065178)**

**Court : Punjab and Haryana**

**Decided On : Dec-10-2012**

**Appellant : Even Otherwise in Pursuance to the Appointment Letter Dated**

**Respondent : State of Punjab and Others --respondents**

**Judgement :**

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH CWP No.24338 of 2012 (O&M) Date of Decision:

10. 12.2012.

MRS.Seema --Petitioner Versus State of Punjab & others --Respondents  
CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr.Vikram Bali, Advocate for the petitioner.

\*\*\* TEJINDER SINGH DHINDSA.J Learned counsel for the petitioner has been heard at length.

In June, 2006 an advertisement was issued by the Services Selection Board, Punjab inviting applications for recruitment to the post of Punjabi Mistress.

It is asserted that the petitioner had applied in response to the advertisement and in terms of the merit determined in the Female General Category for the post of Punjabi Mistress she had secured 142.43 marks against the cut of marks of 141.82.

However, the petitioner along with a number of other candidates was considered ineligible for the post in question on the basis that she was not a graduate with subject of Punjabi having been taken as an elective subject.

Resultantly, a number of writ petitions came to be filed before this Court including CWP No.20684 of 2006 titled as Jagjeet and others versus State of Punjab & otheRs. The aforementioned writ petition came to be decided by a Division Bench of this Court reported as 2007 (4) S.C.T 349. wherein it was held that the respondents were reading a condition alien to the statutory rules/advertisement, wherein the requirement was only to the effect that one should be a graduate from a recognized university with Punjabi as a subject CWP No.24338 of 2012 (O&M) - 2- and B.Ed with teaching as a subject in B.Ed.

The Division Bench took notice of a memo dated 21.7.2006 which had been relied upon by the State to hold that such memo does not purport to be a clarification to the advertisement issued on 12.6.2006 and could not be construed as a modification of the statutory rules governing the post.

Accordingly, the writ petition was allowed and the State Govt.

had been directed to consider the claim of the petitioners therein for selection/appointment as Punjabi Master/Mistress holding them to be eligible.

Even though, the petitioner had chosen not to approach this Court at the relevant time in terms of filing an independent writ petition, still the claim of the petitioner was also considered by the respondent- authorities as she was identically situated and in terms of the merit determined the petitioner was appointed on the post of Punjabi Mistress in terms of appointment letter dated 25.8.2009 (Annexure P-3). She, accordingly, joined duty on 16.10.2009.

The instant writ petition has been filed seeking the issuance of a Writ of Mandamus for directing the respondents to consider the petitioner as having been appointed w.e.f.7.12.2006 as also to grant to her all the consequential benefits in the nature of arrears of pay, increments etc. Having heard learned counsel for the petitioner at length and having perused the pleadings on record, I find that the present writ petition is devoid of merit.

In the fiRs. instance, it would require notice that the petitioner as also a number of other candidates had not been issued appointment letters initially in the year 2006-2007 in pursuance to the recruitment process initiated by issuing advertisement dated 12.6.2006 by holding them CWP No.24338 of 2012 (O&M) -3- ineligible.

Such ineligibility was on account of the fact that the petitioner as also certain other candidates had not done their graduation having taken Punjabi as an elective subject.

Such issue fell for adjudication before this Court.

It is only in pursuance to a Division Bench judgement of this Court that the matter regarding eligibility came to be finalized and in pursuance thereto the petitioner came to be appointed as a Punjabi Mistress on 25.8.2009.

Accordingly, a view would have to be taken that there was justifiable reason in so far as the appointment of the petitioner having been delayed till the issuance of the appointment order at Annexure P-3.

Learned counsel for the petitioner on a pointed query has not been able to point out any instance, whereby candidates identically situated, who were earlier held ineligible and thereafter having been granted appointment to the post of Punjabi Masters/Mistresses had been granted the benefit of ante dated appointment.

As such even the plea of discrimination is not available with the petitioner.

Even otherwise, in pursuance to the appointment letter dated 25.8.2009 (Annexure P-3) the petitioner accepted the same and joined on the post of Punjabi Mistress on 16.10.2009 without protest.

It is not the case set up on behalf of the petitioner that she had joined on the post on a conditional basis having reserved her rights for claiming the benefit of ante dated appointment w.e.f.2006 along with consequential benefits.

For the reasons recorded above, the present writ petition is without merit and the same is, accordingly, dismissed.

Petition dismissed.

(TEJINDER SINGH DHINDSA) JUDGE 10 12.2012.

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