

(2010) 09 P&H CK 0274

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 151 of 2009

Loveleet Arora

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Sept. 10, 2010

Acts Referred:

- Constitution of India, 1950 - Article 226, 227

Hon'ble Judges: Ajai Lamba, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Ajai Lamba, J.

This civil writ petition has been filed under Article 226/227 of the Constitution of India, praying for issuance of a writ in the nature of mandamus, directing the respondents to give letter of appointment to the petitioner, petitioner being the person highest in merit in the waiting list prepared in general category for District Ferozepur.

2. The facts most relevant for consideration of the issue at hand are that the petitioner being eligible for appointment as ETT Teacher having passed B.Sc. and B.Ed., applied for the post, consequent to advertisement dated 26.6.2007 for teaching in primary schools in rural areas by Zila Parishads. The petitioner was awarded 146.15 merit marks.

3. The case of the petitioner is that having offered letters of appointment to the other persons higher in merit than the petitioner, one post is still lying vacant in general category.

4. So as to resolve the issue, Chief Executive Officer, Zila Parishad, Ferozepur was asked to attend the Court. Mr. Basant Garg, Chief Executive Officer, Zila Parishad, Ferozepur is present in Court and states that one post is lying vacant. Mr. Garg has

further made a statement to the effect that the petitioner who secured 146.15 merit marks, is the highest in merit and is available for appointment to the said post that is lying vacant. He has further addressed the Court that Zila Parishad is not at fault in not issuing letter of appointment, in so much as, a letter was addressed to the Director, Rural Development & Panchayats, with a request to fill the post. The request, however, has been declined vide Annexure R-2. For exact reference, Annexure R-2 is reproduced hereunder:

Subject: To fill the post of General Category ETT Teacher under recruitment of teachers in Zila Parishad.

Reference: Letter No. 2340 Dated 20.2.2009

With reference to your letter, it is written to you that under such circumstances, appointment letter to Loveleet Arora can not be issued.

5. Perusal of Annexure R-2 indicates that no reasons have been assigned by the Director for not filling up the post lying vacant.

6. As noticed above, it is the admitted position that one post is lying vacant. The petitioner is the person who is highest in merit and is available for appointment. The petitioner seeks appointment through this petition. The respondents have no right to ignore the merit of the petitioner in not giving appointment although a post has been advertised, in the peculiar facts and circumstances of the case. The respondents cannot act arbitrarily in denying the appointment to a person who, as per their own case, comes within merit while a post is lying vacant. The respondents have not come up with any justification or reason to say that the post cannot be filled up as is evidence from vague contents of letter, Annexure R-2 issued by the Director.

7. I have also considered the fact that it is the Zila Parishad who is required to employ teachers for teaching in primary schools in rural areas. The Zila Parishad had addressed a memo to the Director, Rural Development & Panchayats. The Director has not assigned any justification for not issuing appointment letter to the petitioner. This is highly fanciful, irrational, irresponsible and injudicious on the part of the Director. On the one hand, no reason has been assigned for not considering the higher merit of the petitioner, on the other hand, no direction has been issued to issue appointment letter to the petitioner. The action of the Director being whimsical, is deprecated, particularly when the petitioner has been found to be eligible, suitable and as per merit determined by the respondents.

8. In such circumstances, the petition is allowed. The respondents are directed to take appropriate decision in view of the observations made above, within two weeks of receipt of certified copy of the order.