

that the meeting had been postponed due to virtual rioting. Merely because after postponing the meeting the convener used the terminology of referring to the adjourned meeting as a second meeting is no reason for holding that it would not be the continuation of the first one. It was plausibly argued by Mr Kuldip Singh learned counsel for the respondents that truly construed these words can possibly be deemed as the adjourned and, therefore, second part of the original meeting.

12. To conclude I would return an answer in the affirmative to the legal question posed at the very outset of the judgment, namely, that a postponed or adjourned meeting under rule 5 would retain its character as a first meeting for the election and co-option of Municipal Commissioners.

13. As a necessary consequence of the above and as held on facts earlier the contention raised on behalf of the petitioner must fail and the writ petition is hereby dismissed. Parties are, however, left to bear their own costs.

N. K. S.

FULL BENCH

Before S. S. Sandhwalia, C.J., P. C. Jain and K. S. Tiwana, JJ.

MANORAMA SOOD,—Appellant.

versus

STATE OF PUNJAB ETC.,—Respondents.

Letters Patent Appeal No. 24 of 1974

December 4, 1978.

Punjab Re-organisation Act (XXXI of 1966)—Section 82—Person appointed to a post before reorganisation but not actually joining—Such person—Whether can be deemed to be serving in connection with the affairs of the then State of Punjab.

Held, that a person who was appointed to a post before the reorganisation of the State of Punjab on 1st November, 1966 but had not actually joined could not be deemed to be serving in connection

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with the affairs of the Punjab State at the time of reorganisation within the meaning of section 82(1) of Punjab Reorganisation Act 1966 and such a person has, therefore, no judicially enforceable right to an appointment in the State of Punjab.

(Para 6).

Letters Patent Appeal under Clause X of the Letters Patent against the judgment of Hon'ble Mr. Justice Bal Raj Tuli passed in Civil Writ No. 3010 of 1972 on 17th October, 1973.

Ram Rang, Advocate, for the Petitioner.

I. S. Tiwana, Additional A.G., for the Respondents. ...

JUDGMENT

K. S. Tiwana, J.—

(1) The short question for decision before us is whether the appellant, who after selection had been appointed to a post in Kulu and Kangra districts before the reorganization of the State of Punjab on 1st November, 1966, but had not joined, was to be deemed to be serving in connection with the affairs of the Punjab State.

2. The Subordinate Services Selection Board, Punjab,—*vide* advertisement in the Daily Tribune of 28th of February, 1966, invited applications for the posts of 59 Social Studies Masters (Kangra 34, Simla 10 and Mohindergarh 15) and 17 Social Studies Mistresses (Kangra 13 and Simla 4), out of which 16 posts were reserved for Scheduled Castes/Tribes and 1 for Backward Classes. The scale of pay was Rs 110—8—190/10—250. The qualifications prescribed were B.A., B.T./B.Ed. with any of the following subjects:—

- (a) History, (b) Economics, (c) Political Science and (d) Geography.

It was further provided in the advertisement that candidates with B.A., B.T./B.Ed. without subject-combination stated above were to be eligible for appointment against those posts in Kangra and Kulu Districts subject to the following conditions:—

- (i) The candidates should make up the subject combination after recruitment, but before confirmation.

- (ii) The candidates will not be eligible for transfer to districts other than Kangra and Kulu unless they have completed their stay in these districts for atleast 7 years.

The appellant was selected for appointment as a Social Studies Mistress for appointment in Kulu and Kangra districts and her name was recommended to the Education Department of Punjab with the names of other candidates. She and other candidates were approved and appointed by the Director of Public Instruction, Punjab, for appointment in Kulu and Kangra districts. Letter No. 15-355-66-EI (2) regarding her appointment was issued on 25th October, 1966. The heading of this letter is as under:—

“The following candidates selected by the Subordinate Services Selection Board, Punjab, are appointed to officiate as Social Studies Mistresses against the available vacancies in the Circle noted against each, on an initial pay as admissible under the rules, in the grade of Rs 110—8—190/10—250, of the Punjab Educational Services (Non-Gazetted) Class III School Cadre Mistresses (women branch) with effect from the date they join, on the terms and conditions given at the end.”

3. As a consequence of the reorganization of the Punjab State on 1st of November, 1966, the districts of Kulu and Kangra formed part of Himachal Pradesh, Prior to that date, that is November 1, 1966, the Circle Education Officer, Jullundur, who was to issue the posting orders of the candidates appointed in Kulu and Kangra districts according to the availability of the posts, could not issue the orders and the appellant could not be posted as a Social Studies Mistress. She was not eligible for selection for appointment in the other areas of the then existing State of Punjab as she did not fulfil the conditions of subject combination, as contained in the advertisement published in the Daily Tribune dated February 28, 1966. The condition of subject combination was relaxed for selection for appointment in the hilly areas of the then State of Punjab as fully qualified candidates were not available for appointment in those areas and the appellant was selected for those districts after relaxing the qualifications. The Punjab Government in September, 1967, after reorganization of the State, took a policy decision that the candidates selected for appointment in Kulu and Kangra districts, who had cleared the subject combination in September, 1967

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or earlier be considered for appointment in new Punjab. Consequently, the appellant was issued a letter dated March 26, 1968, which runs as under:—

“It has been decided by the department that the candidates selected for Kangra/Kulu districts who have cleared the subject-combination in September, 1967 or earlier may be considered for appointment in Punjab.

You are, therefore, advised to submit the copies of the certificates in support of your having cleared the subject combination in September, 1967, or earlier by April 5, 1968, positively. In case, no reply is received by the above date, it will not be possible to absorb you in Punjab and as such your candidature is cancelled in the Punjab Education Department. In case, you want employment on the basis of your selection by the Subordinate Services Selection Board without subject combination, you should move the case to the Himachal Pradesh Government.

The appellant did not fall even within the ambit of this relaxation given by the policy decision of the Government as she had cleared the condition of subject combination only in 1970.

4. The writ petition filed by the appellant for issuing a direction to the State of Punjab for appointing the appellant as a Social Studies Mistress in the State of Punjab on the ground that she had been appointed in this State before the reorganization and she be deemed to have been serving in connection with the affairs of the existing state of Punjab was dismissed by the learned Single Judge of this Court. The learned Single Judge taking the observations of a Division Bench of this Court in **Beant Singh v. The Union of India and others** (1) *as obiter dictum* did not follow those. The appellant filed an appeal against the dismissal of her writ petition under clause X of the Letters Patent. As the correctness of the observations in **Beant Singh's case** were doubted before the Bench hearing the Letters Patent Appeal, the matter was referred to a larger Bench. This is how this Full Bench has come to be constituted to consider the question referred to in the beginning of this judgment.

5. The appellant was not eligible for appointment in any part of the area of the present State of Punjab. She had been selected and appointed in the hilly areas of the then State of Punjab, that is, Kulu and Kangra, which, prior to the reorganization, formed its part, after relaxing the conditions of subject combination. Those conditions were not relaxed in the case of candidates selected and appointed in the other areas of Punjab. The conditions of selection did not permit her claim for consideration for absorption in the Punjab State Service after the reorganisation of the State. The order appointing her and other candidates was conditional. As is apparent from its reproduction above, besides the relaxation of condition of subject-combination, it was to be operative from the date the appointee joined the place of his posting, which was further subject to the availability of the post. The post to which she was appointed but had not been posted by the Circle Education Officer, Jullundur, was lost to the State of Punjab after November 1, 1966 on the reorganization of the State and had gone to the State of Himachal Pradesh. This post was no longer available to the State of Punjab for posting. When these are the facts, *Beant Singh's case* is not attracted for reference, which was decided on different facts. In this situation, we need not examine the correctness of that decision.

6. When this is the situation, the appellant could not be deemed to be serving in connection with the affairs of the existing State of Punjab at the time of the reorganization of the State on November 1, 1966. She had no judicially enforceable right to justify a prayer for the issue of the writ prayed for.

7. The appeal, therefore, is dismissed with no order as to costs.

S. S. Sandhawalia, C.J.—I agree.

Prem Chand Jain, J.—I also agree.

N.K.S.

FULL BENCH

Before P. C. Jain, S. C. Mital and D. S. Tewatia, JJ.

HARDWARI LAL VICE-CHANCELLOR,—Petitioner.

versus

CHANCELLOR M. D. UNIVERSITY and others,—Respondents.

Civil Writ Petition No. 3385 of 1979.

November 16, 1979.

The Rohtak University Act (25 of 1975)—Sections 8 and 9—First Statutes of the Rohtak University—Statutes 2, 3(1), 4 and 5—The