

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2827 of 1997 (O&M)
Date of Decision:- 14.09.2016.

DR. V.B. Kulushreshtha

.....Petitioner

Versus

The Registrar, Punjab Agricultural University etc.

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Sanjeev Pandit, Advocate for the petitioner.

Mr. Neeraj Yadav, AAG, Punjab.

Mr. H.N.S. Gill, Advocate for respondent Nos.3 to 6.

P.B. BAJANTHRI, J. (Oral)

CM No.11258-CWP of 2016

CM for placing on record affidavit of Registrar, Punjab Agricultural University, Ludhiana/respondent No.3 is allowed for the reasons stated in the application as well as affidavit.

CWP No.2827 of 1997

1.) In the present writ petition, petitioner has prayed for the following relief:-

“i) A writ in the nature of certiorary be issued thereby quashing para no.1 and 19 of Appendix-I attached to Annexure P-1 and the adoption of the said paras by the Punjab Government vide Annexure P-16

in ditto words be also quashed and further Annexure P-14 along with all consequential proceedings, vide which the prayer of the petitioner for the grant of benefits of Annexure P-1, P-3, P-7, P-8 (Chapter-IV-A & IV-B of the statutes has been declined, be also quashed.

ii) A writ in the nature of the mandamus be issued directing the respondents to grant the benefits of Annexure P-1 issued by the Union of India, to the petitioner and consequently grant him 4 advance service increments and 4 years seniority for the purpose of promotion to the higher cadre of Breeder and Senior Breeder.

iii) A direction be issued to the respondents to promote the petitioner as Breeder w.e.f. 18-7-1984 and to the post of Senior Breeder w.e.f. 18-7-1992 along with all consequential benefits etc. like arrears of pay allowances and seniority etc. etc. along with interest at the rate of 18 % per annum in terms of Annexure P-3, P-7 and P-8 and chapter IV-A and IV-B of the statutes of the University.”

2.) The petitioner has sought for quashing para 1 and 19 of the Appendix-I to Annexure P-1 and further sought for direction to extend the benefits under Chapter-IV-A & IV-B of the statutes. He has sought for a direction to the respondents to grant him four advance increments on account of passing Ph.D and M. Phil Examination and prayed for promotion to the cadre of Breeder w.e.f. 18.7.1984 and to the post of Senior Breeder w.e.f. 18.7.1992. The petitioner while working as Assistant Breeder, he had exercised option under the prescribed form to the extent that he has opted to be governed by the merit promotion scheme of Punjab Agricultural

University contained in the statute regarding appointment of Breeders by

promotion post on merit as amended from time to time. Exercising such option on 20.3.1990 was accepted by the Head of the Department on 26.3.1990. Thereafter, the petitioner was insisting for shifting his option from merit promotion scheme to that of career advancement scheme. Perusal of the records reveals that there is no provision for exercising or shifting option from merit promotion scheme to that of career advancement scheme. Unless and until shifting or provision for promoting the petitioner to opt for career advancement scheme, the petitioner is not entitled for four advance increments towards passing Ph.D. and M.Phil Examinations. Moreover, the petitioner has not challenged the acceptance of option dated 26.3.1990. As long as option exercised by the petitioner is intact petitioner cannot switch over to career advancement scheme. In the absence of fulfilling the necessary conditions stipulated in statute, the petitioner is not entitled for advance increments having exercised merit promotion scheme. Question of granting promotion to the post of Breeder w.e.f. 18.7.1984 and to the post of Senior Breeder w.e.f. 18.7.1992 is highly belated for the reasons that petition was presented in the year 1997. The Supreme Court in the case of **P.S. Sadasivaswamy Vs. State of Tamil Nadu 1975 (1) SCC 152** held that for the purpose of promotion, an employee should approach at the earliest so as not to affect the rights of the third party. In the present case, if the petitioner is allowed to occupy the post of Breeder w.e.f. 18.7.1984 and Senior Breeder w.e.f. 18.7.1992, rights of the persons who are already promoted would be affected. Therefore, on the ground of delay and laches, the relief sought by the petitioner to promote him to the post of Breeder and Senior Breeder is liable to be rejected. The petitioner has not

1 and 19 of Appendix-I to Annexure P-1.

3.) Hence, the writ petition stands dismissed.

(P.B. BAJANTHRI)
JUDGE

September 14, 2016.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.