

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

226

CWP-21956 of 2013

Decided on : 04.02.2016

Pawan Kumar

... Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM : HON'BLE MS.JUSTICE RITU BAHRI

Present : Mr.Ravi Verma, Advocate
for the petitioner.

Mr.Vishal Aggarwal, Addl.AG, Haryana.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Ritu Bahri, J. (Oral)

Petitioner, by way of this writ petition, seeks direction to the respondents to promote him to the post of Principal w.e.f. 18.08.2006 instead of 01.01.2010, the date when his juniors were promoted.

The petitioner was initially appointed as Science Master on adhoc basis in the *Haryana Education Department* on 22.11.1974 and subsequently, his servers were regularized w.e.f. 16.09.1982 in accordance with the regularization policy framed by the Govt. of Haryana. He joined his duties as Head Master in Govt. High School,

Majod (Hisar) on 15.04.2000. He has been assigned seniority no.289 in the tentative seniority list of Head Master/Head Mistress as it stood on 01.06.2005. The petitioner was retired from service on 31.07.2010 on attaining the age of superannuation.

The petitioner was suspended vide order dated 15.07.2005 and thereafter, a charge-sheet under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 was issued to him for holding him responsible for the poor result of 10th Class during the session 2004-05. In response to the said charge-sheet, he had submitted a detailed reply on 12.02.2007 refuting all the charges levelled against him. He was reinstated in service vide order dated 16.04.2007 (Annexure P/3). Vide order dated 29.12.2008, punishment of stoppage of one annual increment without commutative effect was imposed upon the petitioner. Thereafter, the petitioner was promoted as Principal in HES-II Cadre with effect from 01.01.2010 in the pay scale of Rs.15600-39100 plus Grade pay Rs.6000/-.

A representation was made by the petitioner seeking promotion w.e.f. 18.08.2006 instead of 01.01.2010, the date when his juniors were promoted and one post was kept reserved for the petitioner in pending disciplinary proceedings. The petitioner as per noting (Annexure P/5) is seeking his promotion notionally. A recommendation has also been made for promoting him w.e.f. 18.08.2006 as per service record for the year 2000-01 to 2009-10, the petitioner having possessed 7/10 of good/very good reports,

would be promoted w.e.f. 18.08.2006. The respondents thereafter vide order dated 03.12.2012 accorded sanction to draw arrears for the post as a principal w.e.f. 01.01.2010 and thereafter, order dated 26.06.2013 (Annexure P-9) has been passed after considering the facts of the case and the benefit of notional pay fixation was to be admissible w.e.f. 01.02.2010 for all intends and purposes.

The respondents in the written statement are not disputed the fact that the petitioner was promoted as Head-master on 15.04.2000 while posted at Hisar and after issuing of the charge-sheet under Rule 7 of the Haryana Civil Service, Punishment and Appeal Rules, 1987, he was imposed a punishment of stoppage of one annual increment without commutative effect as per memo dated 29.01.2007. The claim of the petitioner for promotion as Principal was not considered because the petitioner was charge-sheeted and a minor punishment of stoppage of one annual increment without cumulative effect was imposed upon him on 29.12.2008. The petitioner was promoted on 01.01.2010 immediately after the expiry of punishment period 29.12.2008.

The respondents have not disputed the fact that as per recommendation (Annexure P/5), his service record was 70% good/very good and he was recommended to be promoted w.e.f. 18.08.2006. This fact is also evident from the order of promotion of his juniors (Annexure P/1) where one post was kept reserved for petitioner in pending disciplinary proceedings.

Since penalty of punishment imposed upon the petitioner

was not major (it was a minor), order dated 02.07.2012 (Annexure P/7) is set aside and the petitioner is directed to be promoted notionally w.e.f. 18.08.2006 and a direction is also being given to the respondents to fix his notional pay w.e.f. 18.08.2006 for all intents and purposes within a period of three months.

Petition is allowed, accordingly.

[Ritu Bahri]
Judge

04.02.2016
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