

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.5983 of 2016

Date of Decision: March 31, 2016

Commissioner, Kendriya Vidyalaya Sangathan and others
....Petitioners

versus

Ram Mehar Singh and anotherRespondents

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

Present: Mr.Aman Chaudhary, Advocate, for the petitioners.

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1. *Whether Reporters of Local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Surya Kant, J. (Oral)

The Commissioner, Kendriya Vidyalaya Sangathan and other authorities of the said Organization have laid challenge to the order dated 20.10.2015 (P-7) passed by the Central Administrative Tribunal, Chandigarh Bench, whereby the claim of first respondent for retrospective promotion as a Post Graduate Teacher with effect from the date his junior was promoted in the year 1995, was accepted and he has been held entitled to all the consequential benefits including 6% per annum interest on the arrears of pay.

[2] The facts are not in dispute. The first respondent was working as TGT and as per the seniority position, he was entitled to be considered for promotion to the post of PGT. The DPC considered his case and declared him unfit for no fault on his part as the record of annual confidential reports of

respondent No.1 was incomplete. He ran from pillar to post and then approached the Central Administrative Tribunal, Chandigarh Bench in the year 2012 whereupon directions were issued and finally on completion of service record, the first respondent was found suitable for promotion but the petitioner-authorities continued their unfair and discriminatory treatment towards respondent No.1 as instead of granting him promotion from the due date, he was declared to be fit for promotion against the post of the year 2005-06.

[3] The denial of promotion from the due date compelled the first respondent to approach the Tribunal again and having found that he was duly qualified; fulfilled the criteria for promotion in the year 1995 itself; there was no fault on his part for non-completion of his service record coupled with the fact that the petitioner-authorities themselves admitted that his annual confidential reports' record was not properly maintained and that his junior M.K.Tiwari was promoted w.e.f. 18.07.1995, the Tribunal has held that the first respondent is also entitled to be promoted w.e.f. 18.07.1995.

[4] There is no legal or factual infirmity committed by the Tribunal in accepting the claim of first respondent who was denied promotion due to sheer negligence of the authorities.

[5] It is contended by learned counsel for the petitioners that respondent No.1 ought to have been granted notional promotion only without monetary benefits.

[5] In our considered view, the Tribunal has justifiably exercised its jurisdiction in accepting the claim for consequential benefits for there was no rhyme or reason to

keep the service record incomplete for decades, except to delay or deny the due promotion. It was not a case where the promotion of respondent No.1 was delayed either on account of; (i) any bonafide dispute regarding interpretation of Rules; (ii) because of adverse entries in his service record, (iii) pendency of any enquiry or criminal proceedings against him, or (iv) any inter se seniority dispute etc. Respondent No.1 admittedly maintained clean service record and had his annual confidential reports recorded on time, he would have been promoted in the year 1995 itself. In these circumstances, the discretion exercised by the Tribunal warrants no interference.

[6] Dismissed.

[SURYA KANT]
JUDGE

March 31, 2016
mohinder

[P.B.BAJANTHRI]
JUDGE