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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-13731-2013
Date of Decision :21.03.2017**

Dr. Yogender Kumar Yadav

.....Petitioner

Versus

Chaudhary Charan Singh Hary. Agricultural University and Another

.....Respondents

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

Present: Mr. R.K.Sharma, Advocate
for the petitioner.

Mr. Sailender Singh, Advocate
for respondents.

P.B.BAJANTHRI, J. (ORAL)

In the instant petition the petitioner has questioned the validity of communication dated 17.07.2010(Annexure P-8) and communication dated 06.03.2012 (Annexure P-10).

The petitioner's promotion to the cadre of Professor has been granted with effect from 18.06.2008, whereas the petitioner's claim is that he is entitled for promotion to the post of Professor with effect from 09.02.2007. Thus, whether the petitioner is entitled for promotion to the post of Professor which effected from 09.02.2007 or not?

The petitioner is stated to have been appointed to the post of Assistant Professor on 09.02.1990. The respondent-University issued an Act and statutes amended up to 31.12.2002(Annexure P-1). The statutes regarding Career Advancement for Teachers could be effective from 01.01.1996.

In view of the above scheme of promotion (Career Advancement for Teachers) the petitioner was promoted to the post of Associate Professor on 09.02.1999. The next promotional post is Professor which is governed by Clause 6.4 which reads as under:-

“Clause 6.4 Eligibility for career advancement of Associate Professors/equivalents (directly recruited as well as promoted) as Professors/equivalents.

An Associate Professor/equivalent (directly recruited as well as promoted) shall be eligible for promotion as Professor/equivalent in the scale of Rs. 16400-450-20900-500-22400, if she/ he has :

- (i) obtained a Ph.D. degree.*
- (ii) completed 8 years service as Associate Professor (directly recruited as well as promoted).*
- (iii) made some mark in the area of scholarship/ research/extension as evidenced by self assessment, report of the referees, quality of publications, contributions to the educational renovation, design of new courses and curricula etc.*
- (iv) earned consistently good appraisal reports.*
- (v) after promotion as Assoc. Prof./equiv., participated in at least two refresher courses/ summer institutes of not less than 3-4 weeks duration each but in all not less than 7 weeks (49 days). Such courses should not normally be less than 10 days.*

OR

engaged in other appropriate continuing education programme of comparably quality as may be specified/approved by the ICAR, after placement in the senior scale.

Note–1. *The conditions at (iii), (iv) and (v) shall be*

a mandatory requirement. However, if the requirement of orientation courses/refresher courses remains incomplete, the grant of promotion as Professor would not be held up, but these must be completed by 31.12.2002. The increments due after 31.12.2002 will, however, not be given till this requirement is fulfilled. The increments will be allowed on completion of this requirement but no arrears will be paid. The teachers who become eligible for promotion as Professor/equivalent after 31.12.2002 will not be placed for promotion as Professor/equivalent unless they fulfill this condition.

Note-2. *The teacher may, however, opt to attend two seminars/conferences in their subject areas and present papers or attend refresher courses to be offered by ASCs for this level.*

Proviso :

Provided that for computing the specified periods for career advancement, the following period(s) shall be included :-

(a) All periods of regular appointments.

(b) (i) Deputation with GOI/State Govt./any Govt./Semi-Govt. organisation within or outside India.

(ii) Service in any country at an equal or higher position (Verification to be done to the satisfaction of the Vice-Chancellor) in Govt. or University/College/Institute on leave without pay.

(iii) Period spent on trainings/fellowships/scholarships or any other academic pursuit on leave of the kind due. Total of (i), (ii) and (iii) shall not exceed three years.

Note : *The benefit of past service rendered by*

an Assistant Professor/equivalent in any University/college/institution/laboratory etc. will not be allowed.”

The said clause was amended on 07.07.2003 in respect of (iii) which reads as under:-

“Period spent on training fellowship/scholarship or any other academic pursuit on leave of the kind due including extraordinary leave where it counts for increments, but not exceeding 3 years in all.”

Further, it was amended on 13.04.2006 which reads as under:-

“3. The matter has again been reviewed by the Board of Management vide item No.B-3 of its 215th meeting held on 03.04.2006 and it has been decided that where extra-ordinary leave has been availed before 7.7.2003 or where a teacher has proceeded on EOL before 7.7.2003 though resumes duty after availing leave after 7.7.2003, such EOL will be included for computing for career advancement. However, those teachers who proceed on EOL after 7.7.2003 the amended provision circulated on 7.7.2003 will apply on them.”

In view of the above provision of law learned counsel for the petitioner contended that the petitioner is entitled for promotion to the post of Professor with effect from 09.02.2007 and not from 18.06.2008.

Thus, it was further contended that for the purpose of promotion to the post of Professor 08 years of service as Associate Professor (directly recruited as well as promoted) is required to be taken into consideration with a rider that the extra ordinary leave could be ignored for the purpose of 08 years up to 03 years having regard to the fact that the

petitioner has availed extra ordinary leave during the period from 08.07.2002 to 17.12.2004 while working as Associate Professor. Therefore, the said period is within 03 years consequently the petitioner is entitled for promotion to the post of Professor with effect from 09.02.2007. Thus, the respondents have not appreciated the above provision of law while considering the petitioner's grievance relating to alteration of date of promotion to the post of Professor from 18.06.2008 to 09.02.2007.

Learned counsel for the respondent vehemently contended that the petitioner while working as Assistant Professor who was appointed as a reader in Tezpur University, Assam during the period 08.07.1995 to 06.06.1997 and further while working as Assistant Professor he has availed extra ordinary leave when he was appointed as a Professor in Allahabad University during the period from 08.07.2002 to 17.12.2004. If both the periods are taken into consideration for the purpose of computing of service read with the waiver of 03 years of extra ordinary leave then it would be more than 03 years. Therefore, rightly the petitioner has been promoted to the post of Professor with effect from 18.06.2008 with reference to the calculation of extra ordinary leave during the period from 08.07.1995 to 06.06.1997 and 08.07.2002 to 17.12.2004, hence there is no infirmity in the rejection of the petitioner's claim for promotion with effect from 09.02.2007.

Heard the learned counsel for the parties.

Crux of the issue in the present matter is whether the petitioner fulfils the requisite qualification required for the post of Professor under the Statutes regarding Career Advancement for Teachers particularly in Clause 6.4 read with the further amendments on 7.7.2003 and 13.04.2006 or not?

Clause 6.4 is crystal clear that for the purpose of promotion to the post of Professor an Associate Professor must have certain qualification which has been prescribed in Clause 6.4 at the same time 6.4(ii) reads as under:-

“(ii) completed 8 years service as Associate Professor (directly recruited as well as promoted).”

Having regards to the above Clause which has not been amended on 07.07.2003 or on 13.04.2006 vide Annexure P-2 and P-5 respectively and Clause 6.4 (ii) is intact and it has not been amended thus the computation of extra ordinary leave for the period of 3 years and for waiver of such extra ordinary leave for 08 years service as Associate Professor is required to be taken into consideration. In the present case only after 09.02.1999 the date on which the petitioner was promoted to the post of Associate Professor is required to be taken. In other words 08 years of service is required to be counted from 09.02.1999 while excluding 03 years of extra ordinary leave. Thus in the present case, the extra ordinary leave availed by the petitioner while he was appointed as a Professor in Allahabad University during the period from 08.07.2002 to 17.12.2004 is required to be taken into consideration and not the extra ordinary leave availed by the petitioner during the period from 08.07.1995 to 06.06.1997 while working as a reader in Tezur University Assam for the reasons that during the said period the petitioner was holding the post of Assistant Professor and not Associate Professor.

In view of these facts and circumstances Annexure P-8 dated 17.07.2010 and Annexure P-10 dated 06.03.2012 are set aside.

The respondents are directed to redetermine the date of promotion of the petitioner to the post of Professor with effect from

09.02.2007. Such exercise shall be completed by the concerned respondent while extending all service benefits including monitory benefits within a period of three months from today .

CWP stands allowed.

(P.B.BAJANTHRI)
JUDGE

March 21, 2017
Sunil Devi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No