

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17111 of 2013 (O&M)
Date of Decision:-02.08.2017.

Nand Lal

.....Petitioner

Versus

The Hon'ble High Court of Punjab and Haryana

.....Respondents

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

Present: Mr. Nitin Jain, Advocate for the petitioner.

Mr. Sapan Dhir, Advocate for the respondent.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has questioned the validity of the decision dated 06.12.2012, approval of the decision by the Hon'ble Chief Justice dated 20.12.2012, decision of the Hon'ble Recruitment Committee dated 26.3.2013 and further approval of the decision by the Hon'ble Chief Justice on 03.04.2013 and rejection of the petitioner's representation dated 05.02.2013 vide Annexure P-5, P-6, P-11, P-12 and P-10, respectively. Further he has sought for a direction to appoint him as a Reader with reference to the over all merit list dated 20.07.2012 (Annexure P-4) pursuant to the circular dated 28.10.2010 (Annexure P-1) with all service benefits.

2.) Respondent-High Court have proceeded to fill up vacant posts of Reader to Hon'ble Judges in the Pay Band of ₹ 10300-34800 plus Grade

Pay of ₹ 5000/- plus usual allowances on the establishment of High Court of

Punjab and Haryana on 28.10.2010. Post of Reader would be filled up under Rule 9 of the High Court Establishment (Appointment and Conditions of Service) Rules, 1973. Petitioner is a candidate for the post of Reader pursuant to Annexure P-1 circular dated 28.10.2010. His candidature was considered and in the merit-wise result dated 20.07.2012 (Annexure P-4), his name reflected at Serial No.4. Before operating the merit-wise result for the purpose of issuance of appointment order to the post of Reader, respondent noticed that there was a criminal complaint against petitioner, wherein he has been arrayed as accused for certain offences under IPC. Thus, Hon'ble Recruitment Committee took a decision to not to appoint petitioner as a Reader. Decision was approved by the then Hon'ble Chief Justice. Feeling aggrieved by the decision of the respondent, petitioner submitted his representation and it was rejected. Hence, the present petition.

3.) Learned counsel for the petitioner submitted that complaint was filed by petitioner's brother. The object of filing complaint is that there were some misunderstanding among brothers relating to family issue. Therefore, rejection of petitioner's claim to appoint him as a Reader may not be a hurdle as he has not been charge-sheeted or convicted so as to sidetrack or reject his name to appoint him as a Reader. It was also submitted that complaint was filed by the petitioner's brother dated 18.02.2012 was withdrawn on 22.02.2014 vide Annexure P-14. Petitioner's service record is otherwise good. In the reply statement respondents have alleged that petitioner was fined etc. The same was not subject matter when decision was taken to not appoint and event relates to 1999-2003 cannot be taken into consideration in the year 2012. In this background, petitioner is

entitled to be appointed to the post of Reader from the date on which merit-wise result for the post of Reader was operated in appointing other eligible candidates i.e. w.e.f. 03.08.2012.

4.) *Per contra* learned counsel for the respondent submitted that petitioner was facing a complaint in respect of certain offences under the IPC. Therefore, Hon'ble Recruitment Committee rightly taken a decision to drop the petitioner's name for appointing him as a Reader. It was also submitted that there were other issues against the petitioner which are mentioned in para 6 and 7 of the reply statement. Issues like imposing fine of ₹ 100/- etc. in the year 1997, 1999, 2002 and 2003. The Hon'ble Recruitment Committee has not committed any error in not considering the petitioner's name. Further petitioner's representation was also considered and it was rejected. Therefore, there is no substance in the writ petition.

5.) Heard learned counsel for the parties.

6.) Question for consideration in the present petition is whether petitioner's name could be ignored for the purpose of appointing him to the post of Reader with reference to the complaint filed by petitioner's brother for certain alleged offences under the IPC or not and whether imposition of fine in the year 1997 to 2003 could be taken into consideration for ignoring the petitioner's claim to appoint him as a Reader or not?

7.) Post of Reader is governed by Rule 9 of the High Court Establishment (Appointment and Conditions of Service) Rules, 1973. Rule 9 reads as under:-

“Rule-9(i) Appointment to the post of Reader to a Judge shall be made from the following sources:-

(i) (a) From amongst the Law Graduates members of the High Court Establishment serving in the grade not lower

than the grade of Senior Assistant or its equivalent for a minimum period of 5 years.

(i) (b) From amongst the Law Graduates working in the Court of District Judge in Punjab and Haryana and in Subordinate Courts having five years experience in a grade not lower than of 'B' Grade Assistant, Judgment Writer (Senior Grade) and Judgment Writer (Junior Grade)/Stenographer to the District Judge in the State of Punjab and Haryana.

(i) (c) Superintends Grade-II, Assistants, Revisors, Translators, Stenographers serving in the High Court and the employees of Lower Courts in the State of Punjab, Haryana and Chandigarh (U.T.), working in the grade of Assistant Judgment Writer (Senior Grade) and Judgment Writer (Junior Grade)/Stenographer to the District Judge, who have put in more than 20 years of service.”

Petitioner was a candidate for Reader post and he was selected and he stood at Serial No.4 in the merit list.

8.) Petitioner's claim for appointing him to the post of Reader has been rejected on the score that he was facing a criminal complaint filed by his brother. Decision of the respondent that petitioner was facing a criminal complaint read with the past event of imposing fine of Rs.100 etc. These issues would not be hurdle for the purpose of appointing petitioner to the post of Reader for the reasons that as on the date of consideration of his name for the post of Reader whether was he facing disciplinary proceedings to the extent of framing charge or was he facing penalty (currency of penalty) or was he charge-sheeted in the criminal proceedings and further was he convicted. These are all the requirements for ignoring or rejecting

neither the petitioner is facing criminal proceedings or disciplinary proceedings so also charge memo or charge-sheet has been filed. On the other hand criminal complaint filed by the petitioner's brother on 18.2.2012 has been withdrawn on 22.2.2014. Moreover, subsequently petitioner was appointed as Reader on 21.12.2016 with reference to subsequent recruitment. Therefore, rejection of petitioner's claim for appointing him to the post of Reader is arbitrary and contrary to the principle laid down by the Supreme Court in the case of Union of India and others Vs. K.V. Jankiraman and others 1991 SCC (4) 109. That apart, if the respondent-High Court is taking note of the certain punishments like imposing of fine on the petitioner to the extent of ₹ 100/- during the period from 1997 to 2003, the same cannot be taken into consideration for the reasons that punishment gets expired by efflux of time and that Annual Confidential Reports of the petitioner from 1993 to 2013 are good, which are extracted hereunder:-

“Precis of Annual Confidential Reports earned by Shri Nand Lal, Assistant for the period w.e.f. 1992 to 2013 is as under:-

Sr. No.	Year	Overall Grading
1.	1992	Average (wrongly mentioned as 1993 in ACR form)
2.	1993	Good
3.	1994	Good
4.	1995	Very Good
5.	1996	Good
6.	1997	Very Good
7.	1998	Very Good
8.	1999	Good
9.	2000	Very Good
10.	2001	Very Good

11.	2002	Very Good
12.	2003	Very Good
13.	2004	Very Good
14.	2005	Very Good
15.	2006	Good
16.	2007	Very Good
17.	2008	Very Good
18.	2009	Very Good
19.	2010	Very Good
20.	2011	Good
21.	2012	Good
22.	2013	Outstanding

(Lalit Batra)
District and Sessions Judge,
Kurukshetra”

In view of these facts and circumstances, decision taken by the Recruitment Committee and consequential orders are hereby set aside. The respondents are directed to re-consider petitioner's name for appointment to the post of Reader w.e.f. 03.08.2012 within a period of 8 weeks from the date of receipt of certified copy of this order. Learned counsel for the petitioner submitted that petitioner was subsequently appointed to the post of Reader on 21.12.2016. Therefore, at the best petitioner was entitled to service benefits during the period from 03.08.2012 to 21.12.2016.

9.) Accordingly, petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

August 02, 2017.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.