

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

**CWP No.14813 of 2015 (O&M)
Date of decision : February 08, 2017**

Gurnam Singh

..... Petitioner

Versus

The State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. C.L. Sharma, Advocate fro the petitioner.

Ms. Vandana Malhotra, Addl. A.G., Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Petitioner, who was working as S.S. Master with the respondents-department was promoted as Lecturer (Punjabi), vide order dated 30.05.2008 (Annexure P-1/R-1) and posted at Government Sr. Secondary School, Sarhala Kalan, Hoshiarpur against a vacant post. The petitioner accordingly submitted his joining report on 07.06.2008 (A.N.). He retired from service on 30.06.2008. The Sanctioning Authority accordingly issued the pension payment order dated 16.07.2008 (Annexure P-4). However, later on, vide order dated 17.10.2008 (Annexure P-6), the office of the Accountant General (A&E), Punjab refixed the pension of the petitioner on account of the decrease in the pay and reversion on promotion, thereby granting the pay scale and pension to the petitioner of the post of S.S. Master. The petitioner has challenged the order dated 17.10.2008 (Annexure P-6) passed by the Accounts Officer.

In the reply, the State has taken the stand that there were vacations in the month of June and the petitioner submitted his notional joining report on 07.06.2008 to the Head Master of the said school, where he was working as S.S. Master and that there was no post of Lecturer in the said school and that joining was merely on notional basis till posting orders were issued. It is further submitted that the petitioner was re-employed w.e.f. 01.07.2008 to 31.03.2009. As the petitioner was already retired from service on 30.06.2008 on attaining the age of superannuation, he did not join his place of posting neither he worked against the post of Lecturer. Rather he filed and submitted the affidavit Annexure R-2 on re-appointment, whereby he agreed to work on previous post as S.S. Master in the Government High School, Sarahala Kalan, District Hoshiarpur.

I have heard learned counsel for the parties and have also carefully gone through the case file.

A perusal of promotion and posting order dated 18.07.2008 (Annexure R-1/T) shows that the petitioner was promoted and posted against a vacant post in the Government Sr. Secondary School Sariana (Hoshiarpur) and he joined thereon on 07.06.2008. Once, the petitioner has joined on the promotional post, it hardly matters as to whether there were vacations or normal working days in the school or not. Once, he is promoted and joined as such, he is entitled to the salary of the promoted post. It is not the case of the State that the petitioner was ever reverted. The pension payment order was issued in accordance with the pay scale and post of the petitioner as Lecturer in Punjabi. The order dated 17.10.2008 (Annexure P-6) is patently illegal. The Accountant General is no one to reduce the pay and record the reversion on promotion. It is the competent authority, which

can pass the order of reversion, which was never done. Therefore, whether the petitioner had actually worked on the promotional post or not due to vacations, is no ground to deny the grant of pay on the higher post to which he was promoted. Affidavit Annexure R-2 is only regarding the undertaking given at the time of re-appointment. It was after the retirement of the petitioner, vide affidavit Annexure R-2, the petitioner agreed to work on the post of S.S. Master, this will not have any bearing with the previous promotion of the petitioner before his retirement. Accordingly, the impugned revised PPO order dated 17.10.2008 (Annexure P-6) is patently illegal and is hereby quashed. The respondents are directed to continue to pay and pension as per order dated 16.07.2008 (Annexure P-4). The arrears, if any, shall be released to the petitioner within two months from the date of receipt of certified copy of this order along with interest as per Government instructions.

As such, the present petition is allowed.

(KULDIP SINGH)
JUDGE

February 08, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: No