

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

CWP No.16687 of 2015 (O&M)

Date of Decision: May 10, 2017

Baldev Krishan

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Parminder Singh-I, Advocate
for the petitioner.

Mr. L.S. Virk, Addl. AG Punjab.

JAISHREE THAKUR, J.

The petitioner herein seeks to challenge the reversion order dated 15.06.2015 (Annexure P-6) by which he has been reverted from the post of Headmaster to the post of S.S. Master, with the further prayer for release of all retiral benefits including pension, gratuity, leave encashment, provident fund etc. as payable on the post of Headmaster.

2. In brief, the facts are that the petitioner joined the Punjab Education Department as Punjabi teacher on 10.01.1978 on ad hoc basis and was made regular w.e.f. 01.10.1980. Thereafter, he was promoted as Social Studies Master on 10.01.1992. The petitioner was further promoted to the post of Head Master on 02.04.2012 and after working on the post of Headmaster, he superannuated on attaining the age of 58 years. The seniority number of the petitioner was 10625, which was as per the seniority list prepared on 05.03.2001. On the basis of the seniority list, the petitioner

had been given promotions. A complaint was filed against the petitioner as well as against Ashwani Kumar, on the ground that the promotions were wrongly given. In this regard, a show cause notice was issued to the petitioner on 17.07.2014, to which a reply was submitted. However, the petitioner was reverted after his retirement to the Master Cadre, on the basis that promotion had been made on erroneous facts. After the passing of the reversion order, the respondents are not releasing the pensionary benefits to the petitioner. Hence, the instant writ petition.

3. Mr. Parminder Singh-I, learned counsel appearing on behalf of the petitioner contends that the seniority of the petitioner was fixed, after objections had been invited in the year 2001. It is further submitted that without supplying the copy of the enquiry report and giving an opportunity of hearing to the petitioner, the reversion order was issued and served upon the petitioner. After having served for more than 3 years, after his promotion as Headmaster, there was no need to revert him, after he had attained the age of superannuation and had since retired.

4. Per contra, Mr. L.S. Virk, learned Addl. AG Punjab, appearing on behalf of the respondents-State submits that the petitioner had got his seniority number, by mentioning his wrong date of joining in the Master Cadre. It is argued that promotion to the post of Headmaster was on the basis of seniority fixed by misrepresenting to the Department, as no employee of Master Cadre dated 30.01.1992, has been promoted so far. In this regard, a complaint was received and a preliminary investigation was conducted and it was found that the petitioner was appointed as Punjabi teacher in Classical and Vernacular Grade on ad hoc basis on 10.01.1978

and he was working in the Master Cadre from 10.01.1992. The petitioner was given ample opportunity of hearing and thereafter, reverted to the post of Social Studies Master.

5. I have heard learned counsel for the parties and perused the pleadings of the case.

6. The petitioner herein is aggrieved against the reversion order dated 15.06.2015 on the ground that he had been given the seniority, after the objections had been received. On the basis of seniority list, he got promotion to the post of Headmaster. A categorical stand has been taken that the Punjabi teachers were initially part and parcel of the Cadre known as Classical and Vernacular Cadre and the seniority of such teachers was maintained at the District level. Thereafter, the petitioner was promoted from the post of Punjabi teacher to the post of Social Studies Master. The social Studies' Masters seniority is maintained at the State level and the petitioner managed to get his name included in the seniority list of Masters, on the basis of his joining as a Punjabi teacher. In fact, the petitioner would be entitled to seniority in the Master Cadre, from the date he joined on the post of Social Studies Master i.e. w.e.f. 30.01.1992 and not on the basis of being confirmed on the post of Punjabi teacher, Classical and Vernacular Grade, at the District level.

7. It is argued that no person, who has been working against the Master Cadre w.e.f. 30.01.1992, has been promoted to the post of Head Master. After the petitioner was given the said promotion, an enquiry was held and the petitioner was given due opportunity to represent himself. The argument as aforesaid would lead to no other conclusion other than holding

that there is no infirmity in the order of reversion, so passed. The seniority maintained at the State level is on the basis of entry into the service as a Social Studies Master, which in the case of the petitioner would w.e.f. 30.01.1992 and not to be counted from the date, he was confirmed on the Punjabi Teacher, in a cadre known as Classical and Vernacular Cadre. The law is settled in this regard that the petitioner would not be entitled to any benefit, in case the said benefit has been availed of by misrepresentation and no equity would lie in his favour. The contention raised that the petitioner had served on the post of Head Master for a period of three years, would also be of no benefit to the petitioner, since on the said post, he had been given promotion, by misrepresenting his date of joining in the Master Cadre. Therefore, the promotion that had wrongly been given to the petitioner, had rightly been withdrawn.

7. Learned counsel for the petitioner has not been able to point out as to what fundamental right of the petitioner herein has been infringed for interference by this court. The impugned order only seeks to rectify a mistake that has occurred on account of wrong promotion that was given to the petitioner, based on wrong fixation of the seniority.

8. In view of the above, the petition in hand stands dismissed, being devoid of any merits.

May 10, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No