

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.12852 of 2017 (O&M)

Date of Decision: 10.7.2017

Narinder Pal singh

--Petitioner

Versus

State of Punjab and another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Vivek Sharma, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

C.M. No.9052 of 2017

Application is allowed as prayed for.

Appointment letter dated 14.12.1998 is taken on record at
Annexure P-13.

Main Case

The petitioner is presently serving on the post of Programmer under the Technical Education and Industrial Training Department, State of Punjab. He was promoted on such post on 9.9.2016.

The short grievance raised in the instant petition is that the respondent department has arbitrarily denied him consideration to the promotional post of Programmer in the D.P.C proceedings conducted in the year 2014 only on the basis that he lacked the requisite experience of 5 years on the feeder cadre post.

Counsel would submit that the petitioner was appointed to the post of Lab. Technician Computer in the year 1998 and continued to serve as such till his services were regularized on 28.6.2011.

Under the Department of Technical Education and Industrial Training (Technical Education Wing) Group A First Amendment Rules, 2008 the post of Programmer is to be filled up 50% by way of direct recruitment and 50% by way of promotion. The mode of promotion to the post of Programmer is to be resorted from amongst the Technicians Computer Engineer and who have an experience of working as such for not less than 5 years.

The precise argument raised by counsel is that the rule nowhere states that experience should be in regular service alone and as such even the ad hoc/contractual service that the petitioner had actually gained on the feeder cadre post had to be taken into reckoning to count his eligibility for consideration for promotion to the post of Programmer.

It is submitted that even though, at a later point of time the petitioner has been promoted to the post of Programmer but he was vested with a right to be considered for promotional post in the D.P.C proceedings held on 28.1.2015 and in pursuance to which orders of promotion of other employees had been issued on 21.8.2015. It is vehemently contended that considering the petitioner to be ineligible for promotion to the post of Programmer in the D.P.C proceedings conducted on 28.1.2015 by not counting the experience of the petitioner on the feeder cadre post while serving on contractual/ad hoc basis, is contrary to the rule position as also violative of Articles 14 and 16 of the Constitution of India.

Counsel, at this stage, submits that he would be satisfied, if, liberty is granted to the petitioner to file a comprehensive representation to the respondent department as regards his claim and grievance and directions be issued for such representation to be decided within a time bound frame.

I find the prayer made by counsel to be just and fair.

Accordingly, the instant petition is disposed of in terms of granting liberty to the petitioner to file a comprehensive representation before the Principal Secretary, Technical Education and Industrial Training Department, State of Punjab/respondent no.1, within a period of two weeks from today. In the eventuality of any such representation being preferred, respondent no.1 would be obligated to consider the same and to take a final decision thereupon by passing a speaking order within a period of two months from the date of submission of the representation.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

10.07.2017

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Whether speaking/reasoned:	Yes
Whether Reportable:	No