

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.16337 of 2017(O&M)
Date of Decision: 28.07.2017

Charanjit Vatish

--Petitioner

Versus

State of Punjab and another

--Respondents

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

Present:- Mr. K.S. Khehar, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

Challenge in the instant petition is to the orders at Annexures P-4 and P-6 carrying even date i.e. 15.7.2017 and issued by the Secretary, Govt. of Punjab, Education Department (Schools). As per petitioner vide the impugned orders he has been reverted to the post of Principal from the post of District Education Officer and consequently has been posted as Principal, Govt. Senior Secondary School (Elementary), Longowal, district Sangrur.

Counsel submits that the petitioner is physically handicapped and suffering from a permanent visual impairment to the extent of 80%. Petitioner was initially appointed as Senior Laboratory Assistant in the year 1994. Thereafter, petitioner has earned promotions to the post of Master and then as Lecturer. In the year 2012, petitioner was promoted to the post of Principal. Pleadings would indicate that the petitioner was adjusted/transferred on the post of Deputy District Education Officer on 24.8.2016.

Petitioner is aggrieved of the impugned orders at Annexures P-4 and P-6 and which he is construing to be a reversion to the post of

Principal and a transfer to a particular place.

The entire case set up on behalf of the petitioner is that the impugned orders are against the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (herein after to be referred as the 1995 Act). Counsel contends that even State of Punjab had issued instructions in the year 2013 which were towards implementation of the provisions of the 1995 Act and 3% posts are reserved for the physically handicapped employees in promotion. Even posts are stated to have been identified for the physically handicapped employees and counsel submits that the 11th Roster Point was available for the petitioner. It is vehemently argued that while issuing the impugned orders dated 15.7.2017 (Annexures P-4 and P-6) the benefit envisaged under the 1995 Act has not been kept in mind.

Counsel for the petitioner has been heard at length and the case paper book has been perused.

The relevant statutory rules governing the conditions of service of the petitioner would be the Punjab Educational Service (Service & Inspection) Group A Service Rules, 2004. Rule 5 provides for method of appointment, qualifications and experience to the service. The manner of appointment for a particular post in the service is specified in Appendix 'B'. As per Appendix 'B' at Sr. No.2, the Deputy Director is to be appointed through the mode of promotion (100%) and in the manner as follows:-

“Deputy Director:

100% from amongst the District Education Officers (Secondary Education), District Education Officers (Elementary Education), Principal, District Institute of Education and Training, Principal, Secondary Schools, Assistant Director, Evaluation Officer, Subject Matter Expert

(State Council of Education Research and Training), Survey Officer, Deputy Circle Education Officer, Deputy District Education Officer, District Science Supervisor, Senior Lecturer, Senior Guidance Counsellor, Agricultural Advisor, Co-ordinator (Population Education), Officer on Special Duty (Works and Planning), Officer on Special Duty (Scholarship) and Co-ordinator, who have an experience of working as such for a period of minimum ten years on either of the posts.”

A proviso stands added to the rule which reads as under:-

“Provided that under this clause only those Vocational Lecturers/Masters/Mistresses shall be considered for promotion, who have initially been appointed in the pay scale of Lecturer, as may be notified by the Punjab Government from time to time.”

To the proviso a note reads in the following manner:-

“It is made clear that in view of the norms of official propriety, only the senior most officer, holding any of the post mentioned under column-2, shall be posted as District Education Officer.”

A bare perusal of the relevant statutory provision leaves no doubt that the post of District Education Officer and Principal are at par and are interchangeable posts. While one post is for the field, the other is for the administrative office. The post of District Education Officer as also Principal form part of the feeder cadre to be considered for promotion to the post of Deputy Director.

In other words, in the light of the impugned orders the petitioner has merely been transferred/adjusted on the post of Principal. Such order does not entail any reversion. Counsel has not been able to demonstrate any adverse impact upon being posted/adjusted as Principal in the nature of grant of a lower pay scale or any other condition of service

having been adversely effected.

The reliance upon the provisions of the 1995 Act also proceeds on a fallacious premise. The reservation and quota prescribed under the 1995 Act and in relation to identified post under the relevant instructions issued by the State Govt. would be at the stage of appointment to a particular post be it by resorting to the mode of promotion. The reservation and quota under the 1995 Act would have no applicability in matters of transfers/postings.

In the considered view of this Court, the impugned orders carrying even date i.e. 15.7.2017 at Annexures P-4 and P-6 do not revert the petitioner and rather it is a case of mere transfer/adjustment.

No interference in the case is called for.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

28.07.2017

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No