

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.21300 of 2017(O&M)
Date of Decision: 01.11.2017

Dr. Swaranjit Singh Brar

--Petitioner

Versus

State of Punjab and others

--Respondents

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

Present:- Mr. Vikas Kuthiala, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

Petitioner seeks issuance of directions to the respondent- Department of Health & Family Welfare, State of Punjab to consider his claim for promotion to the post of District Ayurvedic & Unani Officer.

It has been averred in the petition that the petitioner joined the Department of Ayurveda, State of Punjab as an Ayurvedic Medical Officer on 4.6.1987. Petitioner was promoted to the post of Senior Ayurvedic Physician on 28.4.2016. Promotion from the post of Senior Ayurvedic Physician is to District Ayurvedic & Unani Officer. Under the Punjab Ayurvedic (Group A) Service Rules, 2008 experience required for promotion to the post of District Ayurvedic & Unani Officer is of one year on the post of Senior Ayurvedic Physician. Under the statutory rules it is provided that if requisite number of officers in the cadre of Senior Ayurvedic Physicians are not available, then, the Ayurvedic Medical Officers having 10 years of experience can be considered for promotion to the post of District Ayurvedic & Unani Officer. It is contended on behalf of the petitioner that since he was promoted as Senior Ayurvedic Physician vide order dated 28.4.2016, he became eligible for promotion to the higher

post of District Ayurvedic & Unani Officer w.e.f. 27.4.2017.

Proceedings of a Departmental Promotion Committee are stated to have been initiated to consider the cases of promotion of various employees including the petitioner to the post of District Ayurvedic & Unani Officer but the same have not fructified.

Essentially the claim set up on behalf of the petitioner is to consider him for promotion to the post of District Ayurvedic & Unani Officer w.e.f. the date such post became vacant and the petitioner being fully eligible and qualified at the relevant point of time under the statutory rules governing the service.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that the prayer raised in the petition cannot be accepted.

It would be open for the employer not to fill up a promotional post on account of administrative exigencies. It is by now well settled that a Writ of Mandamus would not be issued as regards filling up a promotional post is concerned unless State action is shown to be arbitrary or vitiated on account of considerations which are other than bonafide.

In the facts of the present case a process to convene a D.P.C to fill up the post of District Ayurvedic & Unani Officer had been initiated by the State Govt. However, one Rajesh Kumar Sood working as Ayurvedic Medical Officer filed ***CWP No.8077 of 2017 (Rajesh Kumar Sood Vs. State of Punjab & others)*** and in such writ petition vide orders dated 27.4.2017 (Annexure P-3/A), this Court had directed to defer proceedings of the D.P.C till the next date of hearing i.e. 28.9.2017. Present petitioner concededly filed applications for impleadment as also for vacation of stay in

CWP No.8077 of 2017.

The writ petition came to be disposed of as withdrawn vide order dated 17.8.2017 (Annexure P-6). In the interregnum petitioner attained the age of superannuation on 31.5.2017. He, however, thereafter has been granted extension in service for a period of one year.

Against the factual backdrop noticed herein above, no fault can be attributed to the respondent-State department in not carrying forward the process of filling up the post of District Ayurvedic & Unani Officer on account of the D.P.C that had been convened while petitioner was in service. It is merely a travesty of circumstances that the petitioner in the meanwhile has retired. There is no vested right in the petitioner to claim consideration for promotion to higher post w.e.f the date the vacancy had arisen.

Another relevant fact that may be taken note of is that during the service tenure of the petitioner the seniority of the feeder cadre post of Senior Ayurvedic Physician had not been finalized. This in itself would be an impediment in so far as consideration for promotion to the next higher post of District Ayurvedic & Unani Officer.

For the reasons recorded above, no interference in the matter is warranted.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

01.11.2017
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No