

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.3020 of 2014

Date of Decision:-09.01.2017

Satinderdeep Kaur.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. R.K. Arora, Advocate for the Petitioner.

Mz. Sudeepti Sharma, Deputy Advocate General, Punjab.

JASWANT SINGH, J.

Prayer in the present petition is for quashing of the order dated 05.02.2014 (P-17) whereby, the promotion order of the petitioner on the post of Principal in PES Group A Cadre w.e.f. 01.04.2013 has been cancelled and it has been ordered that she be reverted to the post of Lecturer in Goeography.

Learned Counsel for the petitioner has argued that petitioner was promoted as Principal from the post of Lecturer w.e.f. 01.04.2013 on the post reserved for Physically Handicapped. However, later on finding that one Charanjit Singh, who was senior to the petitioner in that category, had been ignored as his record was not received by the DPC, he was promoted from the date the petitioner was promoted and she is sought to be

the said order is illegal because Charanjit Singh has already retired from service on 30.11.2013 and since the petitioner is the next person in the seniority list, she deserves to be promoted in any case in the category of Physically Handicapped (Ortho) and the impugned order is without any rhyme and reason, directing her reversion especially when she is already working on the post since April 2013.

On the other hand, learned Counsel for the State has argued that the facts as mentioned by the petitioner are not in dispute. However, it is argued that it is due to the inadvertent mistake on the part of the department officials that the case of respondent no.4 (Charanjit Singh) for grant of seniority was ignored and as and when the fault was detected, after following the due procedure, the impugned order has been rightly passed.

This Court while issuing notice of motion vide order dated 18.02.2014 had directed that the petitioner shall be allowed to continue on the post of Principal.

After hearing learned Counsel for the parties and perusing the paper book, this Court is of the opinion that the present petition deserves to be allowed.

Admittedly, the petitioner had at no stage had misrepresented herself of being senior to the petitioner. It is also an admitted fact that with effect from the date of retirement of Charanjit Singh i.e. 30.11.2013, the post reserved for Physically Handicapped category was available and the petitioner being the next person in the seniority list deserves to be promoted in the category of Physically Handicapped (Ortho) category. The facts and circumstances of the case clearly point out the apathy of the officials at the time of considering the case of eligible candidates for promotion. For the

fault on part of the officials, no party can be made to suffer. In the present case, admittedly, respondent no.4 Charanjit Singh has retired on 30.11.2013 prior to the date when the impugned order dated 5.2.2014 was passed. Thus, there arose no occasion for the respondents to pass the impugned order reverting the petitioner back from the post of Principal to the post of Lecturer as she could be ordered to be promoted w.e.f. 01.12.2013, when the posts in the reserved category of Physically Handicapped became available. Therefore, the act of the respondents is against the principles of justice and equity and cannot sustain in the eyes of law.

Consequently, the present writ petition is allowed and the impugned order dated 05.02.2014 (P-17) is hereby set aside. The respondents are directed to consider the appointment of the petitioner to the post of Lecturer w.e.f. 01.12.2013.

(JASWANT SINGH)
JUDGE

January 09, 2017
Vinay

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