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

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**Civil Writ Petition No.23130 of 2017
Date of Decision: November 13, 2017**

Dr. Virendra Singh

...Petitioner

versus

Central Administrative Tribunal, Chandigarh Bench, Chandigarh and
others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Puneet Bali, Sr. Advocate with
Ms. Monika Thakur, Advocate for the petitioner.

AJAY KUMAR MITTAL, J. (Oral)

The petitioner, by way of instant writ petition filed under Articles 226/227 of the Constitution of India, has impugned the order dated 29.09.2017 (**Annexure P-8**) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh-Respondent No.1, (in short, 'the Tribunal') in Original Application No.O.A./060/694/2017.

2. It was submitted by learned counsel for the petitioner that the Tribunal, while issuing notice of motion on 28.06.2017, had commented that the assessment promotion scheme shall not amount

to actual promotion and there being no substantive post of promotion available, respondent No.4 could not be ranked senior to the petitioner. Reliance was placed upon the order of Principal Bench of the Tribunal passed in OA No.2915/2010 titled as '**Prof. Kashual K. Verma and others vs. AIIMS and others**'. In the notice of motion order passed by the Tribunal on 28.06.2017, the following contentions have been noticed:-

'1. Heard.

2. By means of present O.A., the applicant seeks two reliefs. Firstly, he seeks issuance of direction to declare him senior to respondent No.4 in the Department of Hepatology and held entitled to be considered for posting as HOD Hepatology on vacation of the said position by Dr.Y.K. Chawla, present incumbent, who is retiring on attaining the age of superannuation w.e.f. 30.09.2017. Secondly, he further seeks issuance of direction to the official respondents to finalize the seniority list of incumbents of the cadre of the applicant and respondent No.4 strictly in accordance with the provisions of the Regulation 34 of the PGIMER Regulations, 1967.

3. Learned counsel for the applicant argued that the applicant joined the respondent Department as Assistant Professor on substantive post on 22.10.1992, whereas private respondent No.4 was appointed as Assistant

Professor on 12.10.1993 i.e. almost one year later. When the respondents issued tentative seniority list on 11.09.2015 (Annexure A-9), respondent No.4 has been shown senior to the applicant and placed at S. No.66 whereas the applicant has been placed on S. No.67. Both the applicant as well as respondent No.4 have been given promotion to the post of Additional Professor/Professor under APS Scheme as there was no substantive post of Additional Professor in the respondent-department. He also submitted that as per Regulation 34 of the PGIMER Regulations, 1967, seniority is to be fixed from the date entry into service on the substantive post i.e. in present case is of Assistant Professor where the applicant joined earlier than respondent No.4. Disregard to Regulation 34, the respondents have issued tentative seniority list where respondent No.4 has been shown senior to him against which he has submitted his objection which has not been decided by the respondents till date.

4. Based upon above scenario, Sh. R.K. Sharma, learned counsel for the applicant submitted that the respondents may consider respondent No.4 for the post of HoD without finalizing the seniority list. Therefore, he prayed that pending O.A., a direction be issued to the respondents that if they are going to fill up the HoD post or

decided to give charge of that post on retirement of present incumbent then they go strictly as per Regulation 34 of the PGIMER Regulations, 1967 and the applicant being senior be given charge of that post. He also placed reliance upon the order passed by Principal Bench of this Tribunal passed in O.A. No.2915/2010 titled "**Prof. Kaushal K. Verma and others vs. AIIMS & Ors.**", wherein similar issue was decided vide order dated 04.04.2014 and it was held that seniority is to be fixed as per provision of Regulation 34 i.e. from the date of entry into the service against substantive post. He also informed this Court that order passed in case of Prof. Kaushal K. Verma (supra) was the subject matter before the Hon'ble Delhi High Court in a Writ petition where Hon'ble High Court granted the status quo which has also been affirmed by the Hon'ble Supreme Court.

5. Issue notice to the respondents for 14.07.2017.

6. Considering the apprehension shown by the applicant, I direct that if the respondents decide to fill up the post of HoD or to give charge of that post, then the official respondents will strictly go with Regulation 34 of the PGIMER Regulations, 1967."

3. Accordingly, it was urged by learned counsel for the petitioner that the said points were specifically urged and noticed by

the Tribunal but at the time of passing the final order which is impugned herein (**Annexure P-8**), the same has not been dealt with and thus, there is an apparent mistake on the face of the record. It was also pointed out that the Tribunal has primarily rejected the contention of the petitioner on the ground that on an earlier occasion, the Original application filed by the petitioner was rejected.

4. Accordingly, learned counsel prayed that he may be allowed to withdraw the writ petition at this stage with liberty to the petitioner to file a review application before the Tribunal as there appeared mistake apparent on the record.

5. Dismissed as withdrawn. It shall, however, be open to the petitioner to take recourse to the remedies as may be available to him, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

November 13, 2017
sonia gugnani

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No