

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

1. CWP No. 6048 of 2014 (O&M)

Jaspal Singh & others

...Petitioners

Versus

State of Punjab & others

...Respondents

2. CWP No. 17237 of 2015 (O&M)

Darshan Lal & others

...Petitioners

Versus

State of Punjab & others

...Respondents

Date of decision: 16.05.2017

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R. S. Bal, Advocate
for the petitioners in CWP No. 6048 of 2014.

Mr. Vivek Sharma, Advocate
for the petitioners in CWP No. 17237 of 2015.

Mr. L. S. Virk, Addl. A.G., Punjab.

JAISHREE THAKUR, J. (Oral)

1. This common order shall dispose of above mentioned two writ petitions as the issues involved therein are identical. However, the facts are being extracted from CWP No. 6048 of 2014.

2. The petitioners herein seek to quash appointment of respondents No. 3 to 11 as District Education Officers as well as Deputy Directors on the ground that they are juniors to the present petitioners.

3. In brief, the facts are that the petitioners joined as Lecturers, Head Masters, Vocational Masters from 1996 to 2012. The Government of

Punjab by Notification dated 22.12.2004 framed rules called ***The Punjab Educational Service (Schools & Inspection) Group 'A' Service Rules, 2004.***

As per the said rules of 2004, Rule 5 provided for method of appointment, qualifications and experience to the said service. The manner of appointment was specified against a particular post in Appendix 'B'. As per Appendix 'B', at Sr. No. 2, a Deputy Director and at Sr. No. 3, a District Education Officer, are to be appointed through 100% promotion in the manner which is as under:

“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.

District Education Officer:

- (a) 55% from amongst the Lecturers, working under the control of the Director who have an experience of working as such for a minimum period of seven years;***
(b) 30% from amongst the Head Masters/Head Mistresses, working under the control of the Director who have an experience of working as such for a minimum period of seven years; and
(c) 15% from amongst the Vocational Lecturers/Masters/Mistresses, working under the control of the Director who have an experience of working as such for a minimum period of seven years.”

A proviso has been added thereunder 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.”

4. To the above mentioned proviso, a note has been added which reads as under:

“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.”

5. Based on these rules, the petitioners herein, who are the senior most Principals and Deputy Directors, seek promotion to the post of DPI/DEO.

6. Counsel for the respondents-State contends that during the pendency of the writ petition, a seniority list has been prepared which has been annexed with the written statement as Annexure R-1. He also submits that once the seniority list has been prepared, the same will be acted upon for promotion to the post of DPI/DEO.

7. I have heard learned counsel for the parties and have perused the rules that have been framed thereunder.

8. No doubt, Rule 5 provides for the manner of appointment to a post in service which clearly specifies that no person shall be appointed to a post in the service unless he possesses the qualifications and experience as specified in Appendix 'B'. Moreover, Sub-rule (3) of Rule 5 also stipulates that no person shall have any right to claim promotion on the basis of seniority alone. Once the Department itself has undergone the process of preparing a seniority list, the petitioners herein would have to be considered for promotion in accordance thereof. Once the seniority list is in place, it would be expected of the Department to make any promotion keeping the seniority of the candidates in mind.

9. Therefore, these writ petitions are disposed of with directions to

official respondents to make promotion on the basis of the seniority list and in case wrong promotions have been given, appropriate steps be taken thereafter.

May 16, 2017
Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No