

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

- (1)

CWP No. 6867 of 2014 (O&M)
Date of decision: 23.1.2017
- Baljit Singh and others

...Petitioners
- Versus
- State of Punjab and another

...Respondents
- (2)

CWP No. 6405 of 2014 (O&M)
- Darshan Kumar and others

...Petitioners
- Versus
- State of Punjab and another

...Respondents
- (3)

CWP No. 7055 of 2014 (O&M)
- Sukhminder Singh and others

...Petitioners
- Versus
- State of Punjab and another

...Respondents
- (4)

CWP No. 7610 of 2014 (O&M)
- Karanbir Singh

...Petitioner
- Versus
- State of Punjab and another

...Respondents
- (5)

CWP No. 13411 of 2014 (O&M)
- Jagan Nath and others

...Petitioners
- Versus
- State of Punjab and another

...Respondents

(6) CWP No. 732 of 2016 (O&M)

Kanwaljit Verma and another

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sunny Singla, Advocate and
Ms. Riti Aggarwal, Advocate,
for the petitioners in CWP Nos. 6867, 7055, 7610
and 13411 of 2014.

Ms. Bhupinder Kaur, Advocate, for
Mr. Kapil Kakkar, Advocate,
for the petitioners in CWP No. 6405 of 2014 and
CWP No. 732 of 2016.

Mr. Rupam Aggarwal, DAG, Punjab.

JAISHREE THAKUR, J.

1. This judgment shall dispose of CWP Nos. 6867, 6405, 7055, 7610 and 13411 of 2014 and CWP No. 732 of 2016, since common questions of law and facts are involved therein. However, for the sake of convenience and brevity, facts are being extracted from CWP No. 6867 of 2014.

2. This writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing order dated 02. 04. 2014 by which juniors to the petitioners were promoted as Principals under Punjab Education Service (School and Inspection) Group A Service Rules 2004, with a direction to be issued to consider the case of the petitioners for promotion as Principals from the date juniors had been promoted along with all consequential benefits.

3. In brief, the facts are that the petitioners were initially

appointed as Masters in different subjects in the Department of Education and they also performed the duties of a higher post of Headmaster. Subsequently, the said petitioners were promoted as Headmasters/Headmistress on regular basis. As per the Punjab Education Service (School and Inspection) Group A Service Rules 2004, 30% posts of Principals are to be filled up from amongst Headmasters/Mistresses working under the control of the Director, who have an experience of working as such for a minimum period of 7 years. The petitioners herein, who have worked as officiating Headmasters, seek the benefit of the experience gained as officiating Headmasters/Headmistresses to be counted towards their experience so that they can come into the zone of consideration for appointment to the post of Principal.

4. Learned counsels appearing on behalf of the petitioners contend that the petitioners had worked as ad hoc Headmasters under the Director and their experience gained there along with experience gained on regular post should be counted for promotion to the post of Principal. It is argued that the respondents are denying promotion on the ground that they have not completed 7 years on regular appointment as Headmaster/Headmistress.

5. Learned counsel for the petitioners also relies upon a judgment rendered in **CWP No. 26621 of 2013 Sukhvinder Singh and others Versus State Of Punjab and another** and other connected matters decided on 10.11.2016, to contend that similarly situated persons as the petitioners have been granted the necessary relief. The petitioners therein had also worked on ad hoc basis as Headmasters/Headmistresses and were not considered for promotion to the post of Principal by counting adhoc services

rendered. The learned Single Judge, while allowing the writ petitions filed by holding that the experience gained on temporary post is to be taken into consideration for the purpose of promotion and to be counted as experience gained on regular basis, held as under:-

“ In view of facts and law position as discussed above, it is held that the experience gained on temporary post is to be taken into consideration for the purpose of promotion as the experience gained while working on temporary/adhoc basis to the experience gained on regular basis. Even there is no requirement under the Rules that the experience should be of the regular post. The only requirement is that there should be experience of 7 years. In the present case, the claim of the petitioners has wrongly been rejected only on the ground that they have not worked on regular basis on the post of Headmasters.

Accordingly, the petition deserves to be allowed and impugned order dated 31.11.2013 (Annexure P-1) is hereby set aside. Respondents are directed to re-consider the case of the petitioners for promotion to the post of Principal against 30% reserved quota for promotion amongst Headmasters/Mistresses, which is lying vacant. The necessary exercise be done within a period of three months from the date of receipt of copy of this order.”

6. Per Contra , learned State counsel submits that the petitioners cannot be considered for promotion as they do not have the necessary

experience of 7 years which is mandatory for promotion to the post of Principal. An attempt has been made by the counsel appearing on behalf of the State to distinguish the ratio of the judgment in **Sukhvinder Singh's case (supra)**, as relied upon but is unable to do so.

7. I have perused the ratio of the aforesaid judgment. The facts and the ratio as laid down in **Sukhminder case (supra)** are fully applicable to the instant petitions.

8. Therefore, in view of the settled proposition that the ad hoc service of the petitioners while working on the post of Headmasters/Headmistresses is to be counted towards regular service, the above noted writ petitions too are allowed in the same terms. The respondents are directed to reconsider the case of the petitioners for promotion to the post of Principal against 30% reserved quota for promotion amongst Headmasters/Mistresses, which is lying vacant. The necessary exercise be done within a period of three months from the date of receipt of a copy of this order.

The writ petitions stand disposed of on the above terms.

23.1.2017
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No