

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 16598 of 1998 (O&M)

Date of Decision: 30.05.2018

Kavita Gupta

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Bikramjit Singh Patwalia, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. To cut the long story short, the petitioner can no longer be relegated to a seniority position lower than what the State draws in the seniority list finalized vide order dated 08.10.1998 (Annex. P-12).

2. The brief facts are that the petitioner was appointed as a Lecturer on *ad hoc* basis on 09.03.1982. Her services were regularized in the year 1988 with retrospective effect w.e.f. 01.11.1986 in terms of the order (Annex. P-1). She was promoted to HES Class-II on 07.04.1988. On a wrong premise, the Department mistakenly thought that her promotion should be withdrawn and she should be reverted to the lower post. However, the petitioner approached this Court in CWP No.9690 of 1998 in which the reversion order was stayed. When the petitioner brought to the notice of the Department that there were cases in which *ad hoc* teachers had been given the benefit of their *ad hoc*

service towards seniority and the Department would be violating the equality clause on the basis of administrative precedents, the writ petition was dismissed with direction to the petitioner to make a representation to Department to decide the seniority issue which would settle the question of reversion to the lower post. In compliance of the orders of this Court, the competent authority passed an order dated 25.06.1998 (Annex. P-8) granting provisional seniority over and above those persons who had been given the benefit of their *ad hoc* service towards seniority. Her name was placed at serial No. 157-A. Since the Department had corrected the seniority position, the final seniority list of Lecturers was drawn vide order dated 08.10.1998 (Annex. P-12). That order has been challenged in this petition.

3. The question which falls for consideration in this case is whether the petitioner is entitled at least to her seniority with effect from the date when she was regularized in service i.e. 01.11.1986 together with several of her colleagues as provided in the policy of regularization which required two years service prior to the cut off date. The rule of determination of seniority is on the basis of continuous length of service on the post as per the prevailing Rules.

4. Accordingly, the State Government should be bound down to the seniority list and the benefit of promotion deserves to be given to the petitioner in case persons regularized with her have been promoted to higher post. The matter has been kept pending at the administrative

level because of the pendency of this petition since 1998 which is not a fair or valid reason for not giving effect to the seniority list determined by the State itself.

5. As a result, the petition is allowed. The impugned order is modified and the petitioner will take her seniority from 01.11.1986 in Haryana School Cadre (Lecturers). The petitioner could not have been reverted. The petitioner would also have to be considered for promotion as per rules accordingly from the due dates when persons junior to her were promoted as HES Class-I and in terms of the objections in the representation. Consequential orders be passed within two months.

(RAJIV NARAIN RAINA)
JUDGE

30.05.2018

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*