

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

CWP No.1061 of 2012.

Date of Decision: 19.02.2018.

Smt. Surinder Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. D.S. Patwalia, Sr. Advocate with
Ms. Harmanpreet Sehgal, Advocate,
for the petitioners.

Ms. Sudeepti Sharma, Addl. AG, Punjab.

JITENDRA CHAUHAN.J.

Through this writ petition, the petitioner seeks issuance of a writ in the nature of certiorari quashing the order/select list dated 29.09.2011 (Annexure P-6) vide which the petitioner was denied promotion.

Initially, the petitioner was appointed as Lecturer in Philosophy on ad hoc basis on 08.08.1979. Her services were regularized on 26.03.1980 vide Annexure P-2. The next higher promotion is to the post of Principal. As per Rule 10 (2) of the Punjab Educational Service (College Cadre) (Class I) Rules, 1976 (for short “the Rules”) the promotion is to be made on the basis of seniority-cum-merit only. As per notification/letter dated 06.09.2001 (Annexure P-3) issued by the Department of Personnel, Government of Punjab, the criteria to be followed by the Departmental Promotion Committee (for short “the DPC”) is set out as under:-

Outstanding	:	4 marks
Very Good	:	3 marks
Good	:	2 marks
Average	:	1 mark

The ACRs for the last five years were to be taken into consideration. The minimum benchmark was “Very Good” with at least 12 marks. The respondent/State constituted a DPC for promotions to 17 posts of Principals. The name of the petitioner figured at serial No.4 of the eligible persons list. The ACR record of the petitioner from the year 2004-05 till 2010-11 is as under:-

2004-05	-	A	=	3
2005-06	-	A	=	3
2006-07	-	Non Availability Certificate		
2007-08	-	A	=	3
2008-09	-	B	=	2
2009-10	-	A+	=	4
2010-11	-	A+	=	4

ACR for the year 2006-07 was not submitted by the then Principal who retired thereafter and therefore, the report of that period was marked as “Non-Availability Certificate”. The marks of the immediate preceding year are to be counted as for that year also. Thus, the petitioner had scored a total of 15 marks. To the utter shock and surprise of the petitioner, the select list dated 29.09.2011 (Annexure P-6) did not include the name of the petitioner and the persons junior to her were promoted.

On the other hand, the stand taken by the

respondents/State is that the petitioner could not obtain 12 marks in bench mark in the last five year's ACRs and as such, she was not found eligible for the post of Principal by the DPC held on 24.08.2011. However, later on, she was found eligible by the DPC held on 26.07.2012 (Anexure R-1) and accordingly, was promoted to the post of Principal.

It is contended by the learned Senior counsel that the claim of the petitioner has been rejected solely on the ground that her ACRs for the years 2005 to 2010 were not available. However, he submits that later on, he obtained the photocopy of the ACRs from the department and if the same are considered, the petitioner completes the bench mark of 12 marks. It is further submitted that if there is delay in recording the ACRs of the petitioner, no fault can be assigned to the petitioner as the ACRs are to be filled-up by the department.

On the other hand, the learned State counsel submits that the ACRs were pending with the Reviewing Authority, therefore, while considering the previous ACRs, the petitioner has been found to be ineligible.

Heard.

It is to be noticed that the ACRs of the petitioner for the period in question remained pending with the respondent/Department for want of which the petitioner could not be promoted. Had the ACRs been recorded on time by the competent authority, she would have been promoted to the post of Principal on the

due date as she completes the bench mark of 12 marks. For the inaction of the respondents, the petitioner cannot be put to a disadvantageous position. It has been informed that later on, the petitioner was promoted as Principal and now she has attained the age of superannuation.

In view of above, the present writ petition is allowed.

The Secretary Higher Education is directed to notionally promote the petitioner with effect from the date when her claim for promotion was rejected and to include her name in the list dated 29.09.2011 (Annexure P-6) and grant her all the consequential notional benefits accruing therefrom, within six weeks from the date of receipt of copy of the judgment.

19.02.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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