

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

CWP No.15137 of 2010 (O&M)

Date of decision: 08.10.2018

Partibha Sharma

...Petitioner(s)

Versus

Punjab State Power Corporation Ltd. and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. A.K. Walia, Advocate for the petitioner(s).

Mr. Y.P. Khullar, Advocate for respondent Nos.1 to 3.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab,
for respondent No.4.

Respondent No.5 proceeded against ex parte vide
order dated 22.05.2018.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks quashing of impugned order dated 10.10.2008 (Annexure P-10) passed by respondent No.3 whereby the claim of the petitioner for promotion to the post of mistress has been rejected.

Learned counsel for the petitioner states that he restricts his claim to the extent of paying the higher pay against the higher duties performed by the petitioner. Learned counsel refers to Annexures P-13 and P-14 wherein it has been clearly certified that the petitioner had been teaching high school classes and achieved 100% result for 8th and 10th standard.

Learned counsel for the respondents are unable to controvert the aforesaid factual aspect of the matter.

Heard.

In **Managing Committee of DAV Senior Secondary School, Mustafabad Vs. State of Haryana and others**, 2004(4) SCT 471 (P&B)(DB), this Court observed as under:-

“5. We find no merit in the only contention of the learned Counsel for the appellant. In Para-6 of the petition, specific averment has been made that from the day the petitioner was appointed with the appellant, she had been teaching higher classes as S.S. mistress and yet, is being paid the scale of the post of J.B.T. Teacher and further, that she possessed the eligibility criteria for the post of master/Mistress i.e. M.A./B.Ed. This pleading was sought to be supported from Annexure P-1 which is the appointment letter of the petitioner and reads as under :

'On the recommendation of the selection committee Miss Suman Aggarwal d/o Shri Bal Krishan is hereby appointed as S.S. Mistress on J.B.T. Post in D.A.V. High School Mustafabad with effect from the date he/she joins duty, in the grade of Rs. 480-760 plus used allowances sanctioned by the Haryana Govt. from time to time..."

Besides the appointment letter reproduced above, the Experience Certificate issued on 7.9.1995 states as follows :

'Certified that Miss Suman Aggarwal d/o Shri Bal Krishan Aggarwal, M.A./B.Ed. (M.A. in Political Science) has been working in this institution as a S.S. Teachers sanctioned against a JBT post since 1.4.1985. She is teaching S.S./English to High and Sr. Sec. Classes."

6. The Court is of the view that petitioner has brought sufficient evidence on records to show that she was teaching as S.S. Mistress, even though against the sanctioned post of J.B.T. Teacher. The same finding can be recorded on yet another ground that in the pleadings made in the written statement, contents of Para No. 6 were not specifically denied. The appellant-Institution failed to mention as to what class the petitioner was teaching if

she was not performing the duties of S.S Mistress. What exact duties were being performed by her was also not mentioned. Further, the fact that the petitioner was or not taking classes as S.S. Mistress could be proved by bringing documentary evidence on records which was available with the appellant institution. Its failure to bring on records such documents would necessarily result in drawing an adverse inference against the appellant. The finding on the crucial question, in the facts and circumstances of the present case, in our view, has to be returned in favour of the petitioner. If, thus, the petitioner was performing the duties of S.S. Mistress, she must get the pay-scale admissible to the said post. The employer cannot possibly get the work from an employee of a higher post, and yet choose to pay him/her a pay-scale demanding lesser or lighter duties and responsibility.”

Keeping in view the above, it is ordered that the petitioner shall be paid the difference of the salary of JBT teacher and Hindi Mistress within a period of three months from the date of receipt of certified copy of the order. However, the arrears are to be restricted to a period of 38 months prior to the date of filing the writ petition as has been laid down by a Full Bench of this Court in ***Saroj Kumari Vs. State of Punjab (P&H)(FB), 1998(3) S.C.T. 664.***

Disposed of.

08.10.2018
sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No