

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 16150 of 2016

Date of Decision: May 16, 2018

Gurvinder Singh and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present:- Mr. Jagbir Malik, Advocate
for the petitioners

Mr. Anil Mehta, DAG Haryana

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Sudhir Mittal, J.

The petitioners were appointed as JBT Teachers on 03.01.1998 and 01.01.1998, respectively on contract basis for a period of 89 days. The contract was renewed from time to time and finally their services were regularized w.e.f. 01.10.2003 vide order dated 03.02.2004/29.12.2003. Thereafter, they were promoted to the post of Social Studies Master vide order dated 30.07.2012/17.04.2012 w.e.f. 12.12.2010. In the year 2016, the petitioners and other Social Studies Master/Mistress were considered for promotion to the post of PGT Economics. Vide order dated 02.04.2016 passed by respondent No. 2, the case of the petitioners was deferred on the ground that they did not possess two years teaching experience as on 01.01.2014. Thereafter, respondents No. 3 and 4 reiterated their recommendation for promotion of the petitioners vide endorsement dated 06.04.2016 on the ground that the petitioners were promoted as Social Studies Master w.e.f. 12.12.2010 and, thus, they had acquired the requisite teaching experience. Consequently, they were eligible for promotion. However, the

Government promoted 2090 TGTs vide order dated 26.04.2016 but names of the petitioners were not included in the said order. This action has been challenged by way of the present writ petition.

Reply has been filed on behalf of the respondents in which the stand taken is that actual teaching experience of the petitioners as on 01.01.2014 is less than two years. The respective promotion orders of the petitioners are dated 30.07.2012/17.04.2012 and, thus, it is evident that their actual teaching experience was less than two years on the cut off date i.e. 01.01.2014. Thus, they were not entitled for the promotion as on the cut off date.

Learned counsel for the petitioners submits that order of promotion dated 30.07.2012/17.04.2012 vide which the petitioners were promoted to the post of Social Studies Master makes it amply clear that the promotion was retrospective w.e.f. 12.12.2010. The date with reference to which the case for promotion is being considered is 01.01.2014. Thus, the petitioners possess more than two years experience and the denial of promotion to them is illegal. Reliance is placed upon judgment passed in ***R.C. Jain, Assistant Executive Engineer vs. Haryana State Electricity Board, 1995(2) RSJ 411.***

Learned State counsel reiterates the averments made in the written statement.

Haryana State Education School Cadre (Group B) Service Rules, 2012 govern the promotion of the petitioners. Rule 9(i)(g) provides that in the case of PGT Economics, 67% vacancies are to be filled up by direct recruitment on contract basis and 33% by way of promotion from amongst TGT Social Studies or by transfer or deputation of an official already in service of any State Government or Government of India. Appendix 'B' to the Rules provides the eligibility conditions

for promotion which are M.A. Economics/Applied Economics/Business Economics

with atleast 50% marks and B.Ed. from recognized University, two years teaching experience as TGT Social Studies and certificate of having qualified HTET/STET. Allegedly, the petitioners do not possess two years teaching experience. Is this so?

Perusal of the promotion orders of the petitioners leaves no doubt that they were promoted w.e.f. 12.12.2010. Thus, they would be deemed to have occupied the post of Social Studies Master with effect from the said date and consequently as on 01.01.2014 they possessed the required teaching experience. The expression used in the Rules is “two years teaching experience”. This requirement is fulfilled by the petitioners. The word “actual” can not be read into the expression. In the case of **R.C. Jain (supra)** this Court has held as under:-

“From the rival pleadings, it is clear that by orders (Annexures P-8 and P-9), the petitioner has been granted retrospective promotions as Junior Engineer-I as well as Assistant Engineer. These retrospective promotions accorded to the petitioner will naturally give a right to him to be treated as Junior Engineer-I w.e.f. April, 1973 and Assistant Engineer w.e.f. 1.10.1974. Logically, the petitioner will be deemed to be holding the post of Assistant Engineer with effect from 1.10.1974 and he will be presumed to have gained experience on the post of Assistant Engineer on the basis of his deemed date of promotion.”

The above observations are fully applicable in the context of this case. Thus, the petitioners had requisite experience as on 01.01.2014 and were entitled to be promoted as PGT Economics with effect from the date their compatriots were granted promotion vide order dated 26.04.2016.

The petition is, accordingly, allowed. A writ in the nature of mandamus is issued directing the respondents to consider the petitioners eligible for promotion as on 01.01.2014 and, accordingly, consider them for promotion to the

post of PGT Economics with effect from the date their compatriots were granted promotion within a period of four weeks from the date of receipt of certified copy of this order. The petitioners would also be entitled for grant of all consequential benefits.

May 16, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No