

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

**CWP-5160-2014 (O&M)
Date of decision : 29.11.2018**

Daya Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Gurpreet Singh Dhillon, Advocate,
for the petitioner(s).

Ms. Bhavna Gupta, DAG, Punjab.

JITENDRA CHAUHAN, J.

By way of the instant petition filed under Articles 226/227 of the Constitution of India, the petitioner, *inter alia* seek issuance of a direction to the respondents to promote the petitioner as Headmaster from the date, his junior at seniority No.12708, Nirmal Singh, had been promoted with all consequential benefits.

It is contended that the petitioner joined as Maths Master on ad hoc basis on 24.10.1980. His services were regularised w.e.f. 16.11.1984. Vide Circular dated 10.09.2010 (Annexure P-1), the respondents invited applications for promotion to the post of Headmaster upto serial No.12000 of the seniority list. The petitioner being at serial No.12700, did not apply.

However, no promotions were ultimately made. Again vide circular dated

28.07.2011 (Annexure P-2), applications were invited upto serial No.13502 of the seniority list and the petitioner being eligible (at serial No.12700), applied for the same. The respondents made promotions vide order dated 04.10.2011 and subsequently, vide separate orders dated 02.04.2012. It is submitted that one Nirmal Singh, who was at serial No.12708 in the general category was promoted whereas, the case of the petitioner was ignored despite being senior (at serial No.12700) and belonging to the same category. The petitioner moved several representations but no written response was received. However, during his visits to the office of the respondents, the petitioner came to know that his case was ignored on the ground that he had only 11 marks as against the benchmark of 12 as his ACR for the year 2010-2011 was not considered.

The grouse of the petitioner is that since the meeting of the Departmental Promotion Committee (DPC) was held on 12.12.2011, the ACR for the year 2010-11 ought to have been considered. It is further submitted that vide communication dated 17.05.2012 (Annexure P-5), issued by the Secretary Education to the Director Public Instructions, Secondary Education, Punjab, the ACRs of the petitioner along with other ten similarly placed employees for the years 2006 to 2011 were requisitioned, therefore, it was acknowledged by the respondents that ACR for the year 2005-06 had wrongly been considered in the case of the petitioner. In spite of the above acknowledgement, only two persons namely, Varinder Kaur and Harbans Singh, were promoted vide order dated 06.01.2014 (Annexure P-8), whereas, the petitioner's case was again

ignored.

On the other hand, learned State counsel submits that for the promotions in question, the ACRs for the preceding five years are required to be considered. The petitioner was required to have bench mark of 12 as against 11 to his credit. It is submitted that the service report of all the eligible employees was required to be forwarded upto July 2011, therefore, it was not possible to take into consideration the ACR for the year 2010-11, which was recorded upto September 2011. In the DPC held on 12.12.2011, ACRs for the period from 2005-06 to 2009-10 were taken into consideration for all the employees.

Heard.

It is to be noticed that the petitioner has 11 marks on the basis of ACRs for the period from 2005-06 to 2009-2010, whereas, he has earned 14 marks for the period from 2006-07 to 2010-11. The benchmark for promotion to the post in question is 12 marks. Vide communication dated 17.05.2012 (Annexure P-5), ACRs of the petitioner along with ten other similarly placed employees for the years 2006 to 2011 were requisitioned. As on 17.05.2012, the ACR for the period 2010-2011 had already been recorded, therefore, the respondents ought to have considered the same for calculating the marks.

In view of the above, the instant petition is allowed; the respondents are directed to take into consideration the ACRs of the petitioner recorded for the period from 2006-07 to 2010-11 and pass necessary orders of promotion of the petitioner accordingly within a period

of six weeks from the date of receipt of a certified copy of this judgment.

Allowed.

29.11.2018
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(JITENDRA CHAUHAN)
JUDGE

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