

CWP-6942-2016

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

CWP-6942-2016

Date of decision-12.01.2018

Shashi Bala Kukkar

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. A.K.Khunger, Advocate for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

Ms. Kavita Arora, Advocate for respondent No.3.

JITENDRA CHAUHAN, J. (Oral)

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of writ in the nature of mandamus directing the respondents to grant pay scales of Librarian to the petitioner w.e.f. 10.09.2007, the date when the petitioner joined as Librarian.

It is contended by learned counsel for the petitioner that the petitioner was initially appointed as Clerk and thereafter, on acquiring the educational qualification, was allowed to join as a Librarian on 10.09.2007 (Annexure P-8). A resolution to that effect converting the post to that of Librarian was also passed (Annexure P-7). It is further submitted that the financial benefits are not being paid in spite of a direction having been issued by respondent No.2 on 13.12.2013 (Annexure P-12) to respondent No.3.

On the other hand, learned counsel for respondent No.3 while opposing the prayer contends that there is no sanctioned post of Librarian in the Municipal Council Abohar. Respondent No.3 is not competent either to promote or change the cadre of the employee. Moreover, name of the petitioner has not been removed from the seniority list of Clerks. As per the Audit and Inspection Report for the period 04/2011 to 03/2014, the petitioner had been shown in the seniority list of Clerks. Even budget for the post of Librarian has not been sanctioned by the Government. In this situation, the Municipal Council has no authority to allow the scale of Librarian to the petitioner. Neither there is any sanctioned post of Librarian nor is there any channel of promotion from the post of Clerk to post of Librarian.

I have heard learned counsel for the parties and have gone through the case file.

Considering the fact that there is neither any sanctioned post of Librarian in the Municipal Council Abohar nor is there any channel of promotion from the post of Clerk to the post of Librarian, this Court is of the opinion that the petitioner cannot be granted the pay-scale of Librarian. Even otherwise, learned counsel for the petitioner is unable to show any rules governing the service conditions of the petitioner which permit the change of cadre from Clerk to that of Librarian. Mere resolution cannot confer any right upon the petitioner.

In view of the specific stand taken by respondent No.3 that there is no post of Librarian, the claim of the petitioner cannot be accepted.

Consequently, the present writ petition is dismissed.

(JITENDRA CHAUHAN)
JUDGE

12.01.2018
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No