

CWP-14214-1995 (O&M)

-1-

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

CWP-14214-1995 (O&M)

Date of Decision: April 01, 2019

Bharat Bhushan and Anr

... Petitioners

vs.

Punjab University, Chd and Anr

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Swarn Sandhir, Advocate
for the petitioners.

Mr. Surmeet S. Sandhu, Advocate for
Mr. B.L.Gupta, Advocate
for the respondents.

ARUN MONGA, J

This petition has been filed seeking to quash order dated 07.06.1995 (Annexure P-6) and also to direct respondent No.2 to pass a fresh order in accordance with the recommendation dated 08.03.1994 of the Committee, appointed by the Vice Chancellor of the University as approved by the Syndicate in its meeting held on 10.03.1994.

2. Petitioners No. 1 and 2 were appointed as Calligraphists with the respondent-University on 13.02.1984 and 04.02.1984 and were confirmed as such on 13.02.1985 and 14.02.1985, respectively. The posts of Calligraphists were merged with Clerks vide decision/Resolution dated 25.08.1973 of the Syndicate. It appears that the merger decision was not implemented. A Committee was constituted by respondent No.2 in its meeting held on 08.03.1994, which reiterated that the decision of the

CWP-14214-1995 (O&M)

-2-

Syndicate dated 25.08.1973 should be implemented, in respect of the existing incumbents. This recommendation of the Committee was accepted/approved by the Syndicate vide its resolution dated 10.03.1994. However, the impugned order dated 07.06.1995 (Annexure P-6) was passed by the Assistant Registrar, whereby, the petitioners were ordered to be merged with the cadre of Clerks with immediate effect (prospectively) and were to be placed below the last Clerk, namely, Surjinder Singh, who was confirmed only on 10.07.1994, whereas the petitioners had been confirmed as Calligraphists much earlier i.e on 13.02.1985 and 14.02.1985, respectively. Despite repeated representations, the petitioners were not assigned their entitled position in the seniority list of Clerks.

3. Respondents pleaded that owing to administrative difficulties, the benefit of merger of the cadres could only be given to the persons who were holding the post of Calligraphists at the time of decision of Syndicate dated 25.08.1973. They claimed that the decision of the Syndicate was partially implemented and though the persons, then working as Calligraphists, were given the benefit of merger in the Clerks' cadre, yet the two cadres (Calligraphists and Clerks) continued to be reflected separately in the budget documents. The claim of the petitioners that the cadre of Calligraphists stood merged in the general cadre of Clerks by the decision of the Syndicate in 1973 does not reflect the ground reality as it was never implemented in toto and was rather given an unceremonious burial for 21 years or so. It was asserted that the benefit of merger of the two cadres cannot be claimed by the petitioners. The petitioners had applied for, were selected, appointed and confirmed as Calligraphists. They accepted all this without reservation or protest. They

CWP-14214-1995 (O&M)

-3-

cannot now turn round and seek merger of their posts with general cadre of Clerks.

4. I have perused the record and heard learned counsels for the parties.

5. In my opinion, the stand of the respondents is contradictory and self-defeating. On the one hand, they have issued the impugned order dated 07.06.1995, directing that the cadre of the petitioner Calligraphists be merged with the cadre of Clerks, though with immediate effect. This shows the respondents' unequivocal acceptance, in principle, of the complete merger of the two cadres. At the same time, they have pleaded that the petitioners cannot seek merger of their posts with general cadre of Clerks. This stand of the respondents also demolishes their own case of denial of the petitioners' claim to the effect that the cadre of Calligraphists stood merged in the general cadre of Clerks by the decision of the Syndicate in 1973 and that it was never implemented in totality.

6. The respondents cannot, after unequivocal acceptance, in principle, of the complete merger of the two cadres, arbitrarily deprive the petitioners to enjoy the complete benefit thereof, including seniority as per their dates of confirmation as Calligraphists on 13.02.1985 and 14.02.1985, respectively and place them below the last and junior most Clerk, who was confirmed long after them on 10.07.1994.

7. In view of the above discussion, the impugned order dated 07.06.1995 (Annexure P-6) is set aside to the extent, it restricts the petitioners' benefit of merger of the cadre of the Calligraphists only prospectively (with immediate effect). The respondents are directed to pass a fresh speaking order in accordance with the decision dated

CWP-14214-1995 (O&M)

-4-

10.03.1994 of the Syndicate, allowing notional benefits of the merger of the cadre of Calligraphists with that of Clerks. It is made clear that for the past period, the consequential pecuniary benefits of petitioners for the merger of the two cadres shall be restricted to 38 months, preceding the filing of this writ petition.

8. Disposed of in above terms.

April 01, 2019
smriti

(ARUN MONGA)
JUDGE

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