

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

CWP No. 19861 of 2014.

Date of Decision: 27.03.2019.

Surinder Pal Kaur and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Madhav Pokhrel, Advocate,
for the petitioners.

Mr. Navdeep Chhabra, DAG, Punjab.

JITENDRA CHAUHAN.J.

The petitioners have filed the present civil writ petition for quashing the order dated 08.05.2012 (Annexure P-3) issued by the Secretary, Government of Punjab Department of School Education vide which the date of promotion of the petitioners as Principal was changed from 15.02.2010 to 08.05.2012 and the order dated 16.04.2014 (Annexure P-4) issued by the Circle Education Officer, Faridkot, vide which the date for the fixation of pay and ACP clearance of the petitioners has been fixed as 08.05.2012 instead of 15.02.2010, with a further prayer to grant benefit of promotion to the petitioners as Principal with effect from 15.02.2010.

The brief facts of the case are that the petitioners who were earlier Lecturers with the respondent department were given promotion to the post of Principal on 15.02.2010/17.10.2011 vide orders (Annexure P-1 and P-2) on the basis of their existing seniority

at that point of time. Petitioner Nos. 1 to 3, 5 to 11 and 16 were promoted vide order dated 15.02.2010 and petitioner Nos. 4, 12 and 13 were promoted vide order dated 17.10.2011 with effect from 15.02.2010. In the meantime, the seniority list of the Lecturers was revised on 07.03.2011 (Annexure P-5) in which the petitioners were placed below some other Lecturers who were yet to get promotion to the post of Principal. As such the respondents issued promotion order dated 08.05.2012 (Annexure P-3) on the basis of the seniority list dated 07.03.2011 (Annexure P-5) vide which the persons who were alleged to be seniors to the petitioners were promoted from Lecturer to the post of Principal. It was mentioned that the incumbents who were earlier promoted vide order dated 15.02.2010 and vide order dated 17.10.2011 have now become juniors to the newly promoted incumbents vide amended seniority list of the Lecturers dated 07.03.2011 (Annexure P-5), therefore, the date of promotion of the earlier promoted incumbents (petitioners) be considered as 15.02.2010 instead of 08.05.2012.

It is contended that vide order dated 08.05.2012 (Annexure P-3), the date of promotion of the petitioners was changed from 15.2.2010 to 08.05.2012 in arbitrary manner whereas, the petitioners had actually been promoted on 15.02.2010/17.10.2011 w.e.f, from 15.2.2010 and now in consequence to order dated 08.05.2012 (Annexure P-3), the petitioners have been adversely affected as their service benefits for the purpose of fixation of pay and

the clearance of ACP etc. have been adversely affected vide order dated 16.04.2014 (Annexure P-4) issued by Circle Education Officer, Faridkot.

It is contended that the seniority list of Lecturers dated 07.03.2011 (Annexure P-5) was challenged by way of CWP No.5059 of 2011. The said writ petition was disposed of with a direction to revisit the seniority list dated 07.03.2011 and make the consequential promotion and revision. In compliance thereof, the respondents have finalised the seniority list of the Lecturer cadre on 20.11.2015 (Annexure P-7). The seniority of all the petitioners was restored and they were again declared to be the seniors.

It is further contended that paragraph No.2 of the order dated 08.05.2012 (Annexure P-3) cannot sustain and the petitioners are entitled to be restored the original date of promotion as Principal i.e. 15.02.2010 for all intents and purposes. It is further contended that the similarly situated employees had filed CWP No.19636 of 2014 which was allowed by this Court on 05.10.2018 holding the petitioners entitled to all the consequential benefits.

On the other hand, on behalf of the respondents, it is contended that the order of promotion was a conditional order which specifically finds mention that the promotions are subject to final outcome of the pending litigation before this Court, therefore, the impugned order cannot be questioned by the petitioners.

Heard.

Vide order dated 08.5.2012 (Annexure P3) and order dated 16.4.2014, (Annexure P4), the date of promotion of the petitioners was changed solely on the ground that they were shown as juniors in the seniority list (Annexure P-5). However, the said seniority list (Annexure P-5), no longer survives and the same was revisited in pursuance to order dated 27.5.2015 passed in CWP No.5059 of 2011 and the original seniority list was restored according to which the petitioners were promoted (Annexure P-1 and P-2). This Court is of the opinion that once the basis of Annexure P-3 and P-4, falls flat, the orders (Annexures P3 and P4) need to be revisited in pursuance to fresh seniority list dated 20.11.2015 (Annexure P-7).

In view of above, the present writ petition is allowed. Impugned order dated 08.05.2012 (Annexure P-3) and subsequent order dated 16.4.2014 (Annexure P4), are set aside to the extent to which they change the date of promotion of the petitioners from 8.5.2012 to 15.2.2010. It is held that the petitioners are deemed to have been promoted as Principals w.e.f. 15.2.2010 for all intents and purposes. The necessary exercise of correcting the seniority under challenge be completed within a period of two months from the date of receipt of certified copy of the judgment.

27.03.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No