

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

CWP No.2788 of 2017 (O&M)

Date of decision : 03.05.2019

Sukhvender

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sajjan Singh, Advocate,
for the petitioner.

Mr. Kiran Pal Singh, AAG, Haryana.

Mr. R.K. Malik, Senior Advocate,
with Mr. Sandeep Dhull, Advocate,
for respondent Nos.3 and 4.

Mr. Bhupender Singh Malik, Advocate,
for applicant (proposed respondent No.6).

Ritu Bahri, J. (oral)

CM No.5733-CWP of 2017

For the reasons mentioned in the application, same is allowed and applicant-Indirawati is impleaded as respondent No.6 in this petition, subject to all just exceptions.

CWP No.2788 of 2017

Petitioner is seeking quashing of the letter/order dated 15.12.2016 (Annexure P-8), whereby the Director, Higher Education, Haryana, has rejected his case for promotion to the post of Head Clerk as he did not complete five years of tenure as a Clerk. In this order, it has been observed that the petitioner had taken charge on regular basis on 31.10.2012 and has not completed 05 years.

Learned counsel for the petitioner refers to the order dated 29.07.2010 (Annexure P-2), whereby Principal, C.R. Kisan College, Jind, had revised appointment letter of the petitioner and appointed him on the post of Clerk on regular basis in the pay scale of Rs.3050-75-3950-EB-80-4590 w.e.f. 01.08.2010. This order of regular appointment of the petitioner is not being disputed by private respondent Nos. 3 and 4. However, vide order dated 31.10.2012 (Annexure P-3), revised appointment letter has been issued after the selection of the petitioner was approved by the Director General, Higher Education, vide letter dated 31.10.2012. He was appointed in the Grade of Rs. 5200-20200+1900 G.P. plus usual allowances.

A perusal of the document/letter dated 31.10.2012 (Annexure P-3) shows that the President of Governing Body, C.R. Kisan College, Jind has issued this letter, who is competent authority for granting approval.

Mr. Malik has vehemently argued that approval by the Government was granted vide letter dated 31.10.2012 (Annexure P-3). After granting the approval, he was placed in the Grade of Rs.5200-20200+1900 G.P. plus usual allowances. The college is getting 95% grant-in-aid and the petitioner has been paid salary on a regular pay scale since 29.07.2010 as per Annexure P-2.

However, at the same time, appointment of petitioner on regular basis w.e.f. 01.08.2010 vide order dated 29.07.2010 (Annexure P-2) is not being disputed by respondent Nos.3 and 4. Keeping in view that respondent-College is getting 95% grant in aid from the State Government, the experience w.e.f. 29.07.2010 cannot be ignored for considering the petitioner eligible for promotion to the post of Head Clerk and before 29.07.2010, it could be taken as Temporary appointment.

Approval was granted by the Director General, Higher Education, Haryana on the recommendation of the selection committee vide order/letter dated 31.10.2012 (Annexure P-3). In this backdrop, the order dated 15.12.2016 (Annexure P-8) passed by the Director is liable to be set aside.

Resultantly, the impugned order dated 15.12.2016 (Annexures P-8) and advertisement dated 03.02.2017 (Annexure P-9) are set aside and the Management Committee is directed to pass a fresh order in accordance with law.

Disposed of accordingly.

03.05.2019
ajp

(RITU BAHRI)
JUDGE

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