

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CWP-8674-2020
Date of decision: 22.03.2021

Gurbakshish Singh

.....Petitioner

versus

State of Punjab and others

....Respondents

CWP-15951-2020

Amarjit Singh

.....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Saurabh Arora, Advocate
for the petitioner(s).

Ms. Kanica Sachdeva, AAG, Punjab.

GIRISH AGNIHOTRI, J. (Oral)

This order shall dispose of the two writ petitions i.e. CWP-8674-2020 titled as Gurbakshish Singh vs. State of Punjab and others and CWP-15951-2020 titled as Amarjit Singh vs. State of Punjab and others. For convenience, facts have been taken from CWP-8674-2020.

Petitioners-Gurbakshish Singh (in CWP-8674-2020) and Amarjit Singh (in CWP-15951-2020), have filed the respective writ petitions *inter alia* with a prayer for issuance of a writ in the nature of

certiorari for quashing the the impugned orders dated 29.01.2020 (Annexure P-12) and 29.02.2020 (Annexure P-14).

Records of the case show that on 29.06.2020, Co-ordinate Bench of this Court had passed the following order:-

“Notice of motion.

Ms. Monica Chhibber, Sr. DAG, Punjab, who is also appearing through Video Conferencing, accepts notice on behalf of the respondents-State and seeks some time to file reply.

List again on 16.10.2020.

Till the next date of hearing, the recovery of the arrears from the petitioner shall remain stayed.”

In pursuance to the notice of motion issued on 29.06.2020, short reply by way of affidavit of Gurjot Singh, Assistant Director (School Administration -I) on behalf of respondents No.1 to 3, have been filed.

Learned counsel for the petitioner submits that the undisputed facts are that the petitioner was appointed by promotion to the post of Maths Lecturer on 16.05.2012. Vide order dated 28.07.2017 (Annexure P-1), probation period of the petitioner was ordered to have been satisfactory/successfully completed. Thereafter, vide Annexure P-8 dated 29.07.2017, the Competent Authority ordered that the petitioner be awarded benefit of ACP promotion. Learned counsel then submits that this ACP benefit was withdrawn once in the July 2018, but, was again restored to him in August 2019. He further submits that the seniority dispute *inter se* was finally decided by this Court vide judgment dated 16.12.2016, passed in **“CWP-185-2014** titled as ***Sweetie Badwal and others vs. State of Punjab***

and others.”

The further grievance of the petitioner is that inspite the above, the Office of Director, Education Department (S.E.) Punjab, SAS Nagar, passed an order dated 29.01.2020 (Annexure P-12). The said order was also addressed to the petitioner and it was mentioned that no decision can be taken regarding awarding ACP benefit for the time being.

Learned counsel for the respondents submits that in short reply, it has been submitted that bunch of writ petitions were filed whereby senior Masters and Mistresses, who have been ignored for promotion in May 2008 and May 2012, were seeking promotions to the post of Lecturers in different streams w.e.f. the date, their juniors were promoted. Reference has been made to the judgment dated 16.12.2016 passed in *Sweety Badwal's case* (supra). Thereafter, reference has been made to Paragraph 6 of the reply, to submit that the said matter which involves inter se seniority list is now fixed for 26.04.2021.

Learned counsel for the petitioner further refers to order dated 20.09.2019, 26.09.2019 and 29.01.2021, passed by this Court in CWP-26826-2019, CWP-27859-2019 and CWP-28434-2019 (along with connected matters) respectively. He submits that in view of totality of the above circumstances, it was a legal duty of the respondents to reconsider and pass a fresh order in this regard.

At this stage, learned counsel for the petitioner also makes specific contention that the action of the respondents is also discriminatory as many of those employees whose names were also in the reversion zone,

have been getting the benefit of ACP. In this regard names of 16 persons mentioned in the table (under paragraph 18(c) of the writ petition) are referred to.

Learned counsel for the respondents submits that this position needs to be verified.

This Court, in view of the circumstances, deems it appropriate to direct the Competent Authority to examine the issue and the facts as stated above.

In view of the peculiar facts and circumstances, this Court deems it appropriate to dispose of the writ petition with a direction to respondent No.2 to re-examine the matter and pass a fresh order, *de hors* the order dated 29.01.2020 (Annexure P-12) and 29.02.2020 (Annexure P-14), within three months from the date of receipt of certified copy of this order. It is further directed that in the fresh consideration, detailed position as it stands on today qua the petitioner who have retired, be indicated. It is further clarified that in case, the petitioners are found entitled to the benefits as prayed for, the same be released without any further delay.

Ordered accordingly.

(GIRISH AGNIHOTRI)
JUDGE

22.03.2021

anju rani

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No