

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

CWP-2627-1998 (O&M)

Date of decision: April 27, 2022

Madan Lal Sharma and others

.....Petitioners

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sanjiv Gupta, Advocate for the petitioners.

Mr. Rajesh Gaur, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition was filed in the year 1998, *inter alia*, for issuance of a writ in the nature of Mandamus directing the respondents to treat the petitioners at par with their colleagues of the Masters cadres, and not to discriminate against them in any matter, including appointments to higher posts in the Education Department, by promotion or direct recruitment and for granting to the petitioners other reliefs prayed for.

2. Petition was admitted on 18.07.2001.

3. In the return filed to the writ petition, following stand has been taken in Paras-3 & 4 of the preliminary objections: -

“3. *As far as the promotion of Sanskrit teachers to the post of Headmaster and Block Education Officers are concerned, it is further submitted that now the provision of promotion of Hindi and Sanskrit teachers to the post of Headmasters and Block Education Officers had been inserted in the service Rules, for this purpose 7% posts has already been allotted to the Sanskrit teachers subject to the condition that they must fulfil the prescribed qualifications under the rules.*

4. *It is further submitted that the petitioners are filing this writ petition after having woken up suddenly since their appointment. Moreover, the petitioners alongwith others are being*

considered for promotion to the post of lecturers since 1992. If they fulfil the basic eligibility condition of M.A. in Sanskrit with at least 50% or higher marks. Hence, having filed this writ petition in 1998. It is liable to be dismissed on the ground of delay and laches above.”

4. Learned counsel for the petitioners relies on a judgment rendered in CWP-3405-1985, wherein, learned Brother V.K. Bali, J. (as he then was) opined as below:-

“While, therefore, the writ insofar as cause of petitioners, who have done or whose qualification is equivalent to M.A. in Sanskrit are concerned, the same is allowed directing the respondents to consider their case for promotional post of Lecturer in Sanskrit w.e.f. the date they fulfil the qualifications. If found fit, they should be promoted to the post of Lecturer against the vacant posts without disturbing those who have already been promoted. In the peculiar facts and circumstances of this case, as also in view of the fact that petitioners, who have actually not worked on the promotional posts, would not be entitled to arrears of salary of a decision to promote them is taken from the dates, as mentioned above. A further direction is issued to the respondents to deliberate over the issue and take a conscious decision and preferably after hearing the petitioners and other equally situate persons and finally opine as to whether they are entitled to be considered for promotion to the posts of Head Master and Block Education Officer. Let this exercise be done within a period of three months from the date a copy of this order is handed-over to the Secretary, Education Department, Haryana.”

5. Perusal of the above reveals that *prima facie*, there is merit in petitioners’ claim made in the petition. However, said claim has been rejected without considering the judgment *ibid*.

6. At this stage, learned counsel for the petitioners submits that since the petitioners have already superannuated, it would be more appropriate that petitioners be given a liberty to make fresh representation to the respondents relying on the judgment aforesaid so as to seek their pensionary benefits in terms thereof.

7. Learned State counsel submits that in the event of filing of representation, the same shall be considered in accordance with law.

8. In the premise, writ petition is disposed of with liberty aforesaid. It is expected of the respondents to expeditiously consider the representation and decide the same in accordance with law.

(ARUN MONGA)
JUDGE

April 27, 2022
vandana

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No