

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr.No.530

CWP No.9114 of 1999 (O&M)
Date of decision: 12.05.2022

Dr. Narain Singh

...Petitioner

Versus

The State of Haryana and others

...Respondents

Coram : Hon'ble Mr. Justice ArunMonga

Present : Ms. Sanah Sahni, Advocate
for the petitioner.

Mr. R.D. Sharma, Deputy Advocate General, Haryana.

ArunMonga, J. (Oral)

Petitioner herein *inter alia* seeks issuance of a writ in the nature of certiorari quashing order dated 15.06.1999 (Annexure P-3), whereby respondent No.4 had been promoted as Professor in Kayachikitsa (Medicine), S.K. Govt. Ayurveda College, Kurukshetra.

2. Petitioner was selected and appointed as Reader on 27.09.1991. He continued to work on said post and during his service period no annual confidential report (ACR) was ever conveyed to him. Neither any charge-sheet was ever served upon him nor any punishment and/or penalty ever awarded to the petitioner. Respondent No.4 was appointed as a Reader on *ad hoc* basis against a tenure post on 23.07.1994. Later respondent No.4 was appointed as Reader on regular basis w.e.f. 01.04.1996. His ACRs were also not upto the mark and his integrity was also doubtful. Still respondent No.4, without following all rules and regulations, had been illegally promoted as Professor of Ayurveda though the petitioner was entitled and more suited to be promoted as Professor of Ayurveda and yet he was not promoted.

3. Ms. Sanah Sahni, learned counsel for the petitioner contends that services of the petitioner and respondent No.4 were/are governed by the Rules called Punjab Ayurvedic Department(Class I and II) Service Rules, 1963. As per these Rules, all promotions are to be effected on the basis of seniority-cum-merit. She further contends that no seniority list depicting seniority position was ever circulated. Be that at it may, in accordance with the rules, the petitioner is senior to respondent No.4.

4. In the return filed by official respondents,*inter alia* following stand has been taken:-

“2. That the services of the Petitioner as well as Respondent No.4 are governed by the Haryana Ayurvedic Education (Group A and B) Service Rules, 1999. The Petitioner was appointed as Reader of SwasthyaVrit whereas the Respondent No.4 has been promoted against the post of Professor of Kaya Chikitsa from the post of Reader of Kaya Chikitsa which is in a different cadre and the petitioner has no claim of that post being in different cadre of specialty.”

5. *Apropos* above, replication has been filed wherein factual assertion of the petitioner and respondent No.4 being from different cadre is not denied, though an attempt has been made to otherwise challenge the promotion of respondent No.4 being not eligible as per Punjab Ayurvedic Department (Class I and II) Service Rules, 1963 which were allegedly applicable at the relevant time.

6. Even if the contention as pleaded in the replication is accepted as also been argued by learned counsel for the petitioner, the relief qua quashing of promotion of respondent No.4 is rendered infructuous, as by sheer effluxion of time, petitioner must have lost his right of claim. During pendency of the writ petition, not only the respondent No.4 has completed a full tenure of his service after getting promotion on attaining the age of retirement but petitioner has also superannuated. Therefore, quashing of promotion of respondent No.4 at this stage would not result into promoting the petitioner since he has already superannuated.

7. In the premise, no ground for interference is called for. Petition is dismissed.

8. Since the main case has been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

May 12, 2022
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(ArunMonga)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No