

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(109)

CWP No. 26944 of 2021

Date of Decision : 07.04.2022

Mahabir Singh and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anish Batra, Advocate for the petitioners.

Mr. Raman Kumar Sharma, Addl. Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

In the present writ petition, the prayer of the petitioners is that they are entitled for promotion to the post of Principal with effect from the date, employees junior to them in the Cadre of Head Master has been promoted with all consequential benefits.

As per the averments made in the present petition, the petitioners are holding substantive rank of the Head Master and the next promotion is to that to the post of Principal. Learned counsel for the petitioners argues that vide order dated 26.08.2020 (Annexure P-6) certain promotions were effected on 26.08.2020 to the post of Principal in an officiating capacity and thereafter, regular promotions were effected on 04.05.2021 to the post of Principal. Learned counsel for the petitioners further argues that vide order dated 26.08.2020 (Annexure P-6) and order

dated 04.08.2021 (Annexure P-7), the persons junior to the petitioners were promoted as a Principal in the school cadre and, therefore, the petitioners are also entitled for the grant of the said benefit. On being asked, as to whether, on the date when the orders dated 26.08.2020 (Annexure P-6) and 04.08.2021 (Annexure P-7) were passed, the petitioners were in service or not, learned counsel submits that petitioner No. 1 retired on 30.06.2020, whereas petitioner No. 2 retired on 30.06.2021 and petitioner No. 3 retired on 30.04.2021.

Nothing has been shown to this Court that any of the junior of the petitioners was promoted while they were in service rather, learned counsel conceded that the juniors were promoted after the petitioners retired from services. That being so, no benefit of promotions as given to juniors, can be given to the petitioners for the reason that on the date when the juniors were promoted, the petitioners were not in service.

Even otherwise, the promotion granted to the juniors is in officiating capacity and not a regular promotion. That being so, the officiating promotion of a junior, cannot give a cause of action to the petitioners, who were not in service on the day when the said promotions of the juniors were effected. Merely that the record of the petitioners was summoned for effecting even officiating promotion, will not give them any right as the vacancy, which might be available, if not filled during the service tenure of the petitioners and filled thereafter, will not give any cause of action to the petitioners as, filling of the promotional post is within the domain of the employer as per the judgment passed in Civil Appeal No. 517-18 of 2017 titled as ***Union of India and another Vs. Manpreet Singh***

Poonam and others.

Keeping in view the facts of this case coupled with the law cited above, no interference is called for by this Court in the orders dated 26.08.2020 (Annexure P-6) and 04.08.2021 (Annexure P-7) passed by the respondents.

Dismissed.

April 07, 2022
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No