

106

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-20586-CWP-2023 in/and
CWP-1316-2021 (O&M)
Date of Decision: 18.12.2023

Sukhwinder Singh and others

. . . . Petitioner

Vs.

State of Punjab

. . . . Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Vivek Sharma, Advocate,
for the petitioners.

Mr. Paramjit Batta, Addl. A.G., Punjab.

Mr. D.S. Rawat, Advocate
for the applicants/proposed respondents No.2 to 12.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Matter comes up on an application for preponement moved by the persons who are also aspirants for promotion to the post of Deputy Director. It is stated that they are senior to the petitioners in the seniority list which has been drawn on 13.08.2020.
2. Main case is preponed and is taken on board today itself.
3. The case of the petitioners on the other hand is that the DPC was directed to be convened on 27.02.2020 for making promotions on the post of Deputy Director, and while the recommendations of the DPC for the lower post, namely Veterinary Officers, had already been accepted, but the recommendations for promotion to the post of Deputy Director were not carried out by the State Government without any reasons coming forward.

4. In these circumstances, this Court vide order dated 04.03.2021 restrained the respondents from making promotion to the post of Deputy Director.
5. In the said circumstances, application has been moved for impleadment. Another application is also pending before this Court relating to modifying/vacating the interim order passed on 04.03.2021 filed by the State Government, and an application has also been moved by the present applicants for vacating the interim order.
6. Considering the aforesaid aspects, learned counsel for the petitioners was asked to argue the case on merits.
7. Learned counsel for the petitioners submits that the petitioners were the senior-most persons available on the post of Veterinary Officers and were entitled for consideration for promotion to the post of Deputy Director. The DPC was also directed to be convened on 27.02.2020, and as per their knowledge, the DPC had recommended their names for promotion to the post of Deputy Director. However, without any reasons coming forward, the respondents withheld the said recommendations and did not act upon the same.
8. On the other hand, reply was filed by the State Government stating that the recommendations made on 27.04.2020 were not approved by the Animal Husbandry Minister on the basis of the objections raised by the Personnel Department regarding recommendations by the DPC, as the recommendations were based on a tentative seniority list. It is submitted that final seniority list was later on published wherein the petitioners were shown junior to the applicants who have moved the application today for impleadment.

9. As per Rules, the DPC could only make recommendations on the basis of a final seniority list. It is stated that the provision for making promotions to the post of Deputy Director were as per the Punjab Animal Husbandry, (Group A) Service Rules, 2014 which was amended and as per Rule 5(3) of the Rules, the post is to be filled on the basis of seniority cum merit alone and by 100% promotion.
10. Amendment to the Service Rules was made in the year 2020 and it was provided that the promotion would be made from amongst the Assistant Directors, Senior Veterinary Officers, Assistant Research Officers, who have an experience of working for a minimum period of four years. As per the proviso, if a person from the said category is not available of having four years of experience, then such other members of the service who have got at least 24 years of regular service including the service rendered as Assistant Director, Senior Veterinary Officers, Assistant Research Officers taken together, and who have completed the probation period alone could be also considered.
11. Thus, in view of the Rules having been amended, the Minister had not accepted the said recommendations, and now as per the new Rule, fresh recommendations have to be made by the DPC.
12. Learned counsel for the State has further pointed out that on 12.05.2021, the Rules were again amended by notification, and the Schedule Appendix A to the Rules has been amended. The post of Deputy Director shall now be filled 100% from those who have the qualification and experience for appointment by promotion as under:

"3.	Deputy Director	Hundred percent	From amongst the Assistant Directors/ Senior Veterinary Officers, who have an experience of working as such for a minimum period of four years. OR From members of the service, who have got at least twenty-four years of regular service, including the service rendered as Assistant Director/ Senior Veterinary Officer or Veterinary Officer, taken together, and who have successfully completed the probation period as required."
-----	--------------------	--------------------	---

13. Since the Rule has not been challenged, this Court finds that now the promotions will have to be made in terms of the new Rule. The recommendations made by the DPC based on a tentative seniority list cannot be said to be in order and as per the Rules, and therefore the action of the State Government in withholding such recommendations cannot be said to be incorrect.
14. In view of above, application for impleadment is disposed of and the applicants are treated as intervenors.
15. Writ petition having been heard on merits, is ***disposed of*** in aforesaid terms, and the respondents are now directed to reconvene the DPC for the post of Deputy Director and consider the case of the petitioners as well as that of the respondents as per the seniority list now drawn and strictly in terms of the Rules as amended in 2021.
16. Exercise shall be conducted within a period of ***three months*** henceforth, and those who fall as per the seniority cum merit, would be considered, and promotions shall be made on the posts which are lying vacant with the respondents since long.

17. The interim order dated 04.03.2021 passed by this Court stands vacated accordingly.

18. All pending applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

December 18, 2023

Mohit goyal

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |