

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

379

Date of Decision: 13.09.2023

1. CWP-315-1997 (O&M)

Gurdev Singh and others

.... Petitioners

Versus

State of Punjab and others

.... Respondents

2. CWP-18823-1996 (O&M)

Dev Singh

.... Petitioner

Versus

State of Punjab and others

.... Respondents

3. CWP-19580-1996 (O&M)

Joginder Singh and others

.... Petitioners

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Sunny Singla, Advocate and
Ms. Riti Aggarwal, Advocate
for the petitioner(s) (in CWP-315-1997 & CWP-19580-1996).

None for the petitioner (in CWP-18823-1996).

Ms. Shivani Sharma, DAG, Punjab.

Mr. Kapil Kakkar, Advocate
for respondents No.6, 9, 12 and 20 (in CWP-315-1997).

SANJEEV PRAKASH SHARMA, J (ORAL)

1. By this common order, three petitions bearing
CWP-315-1997, CWP-18823-1996 and CWP-19580-1996, the details of
which have been given in the heading, are being decided.

2. The petitioner(s) by way of this petition challenge the promotions granted to the respondents as Headmasters by giving the respondents seniority of the lower post while the petitioner(s) who had already been promoted to a higher post, was denied the said benefit.

3. Learned counsel for the petitioner(s) submits that the seniority list of the higher post on which the petitioner was working and from the post with the petitioner was working being the post from where the channel of promotion is available to Headmaster, the petitioner although is from reserved category, would be entitled to be promoted over and above the respondents, who have been shown below in the seniority list published as on 31.03.1993. Further, the petitioner(s) submits that the relaxation of experience could not have been made in the impugned order and the persons who did not possess 10 years of experience could not have been promoted to the post of PES Class-II.

4. Learned State counsel has submitted their reply and has pointed out that the seniority granted to the petitioner as Headmaster was on the basis of the reservation policy of the Punjab Government. However, in terms of the judgment passed by the Supreme Court in the case of *Ajit Singh Januja-II Vs. State of Punjab, 1999(7) SCC 209*, the benefit of promotion would not be given to the concerned reserved category person qua consequential seniority. Thus, even though the petitioner was promoted earlier as Headmaster, he would not be entitled for claiming seniority over his erstwhile senior general category persons who are promoted later on. Applying the principles as laid down in Ajit Singh Januja's case (supra), the respondents conducted the exercise of promotion based on the original inter se seniority between the reserved category and General category persons of the lower post from where they were promoted. In view thereof, the

impugned order of promotion mentions persons who are otherwise promoted later on the post of Headmaster but were senior on the lower post and belong to General category, the re-gaining principle of seniority has been applied.

5. Learned counsel for the private respondents has also pointed out that so far as the relaxation in experience is concerned, the same was made and it was noted in the order itself that the promotions would be subject to amendment in the Rules. The Rules were accordingly amended and the total experience required for promotion to any education service was reduced from 10 years to 8 years teaching experience or inspection experience.

6. In view of above, this Court finds that the State Government had in fact followed the principles laid down in the case of Ajit Singh Januja (*supra*). The State Government later on has also issued a circular on 22.10.1999 implementing the said judgment. Thus, the principles which have been laid down in the circular have been applied while making promotions.

7. Although, the said circular was not available as on the date when the promotions were given, since after the circular having been issued, the position would remain the same. It would not be appropriate to cancel the order and direct the respondents to conduct exercise only in terms of the circular dated 22.10.1999. Moreover, this Court finds that it is too late to disturb the promotions which have already been granted in the year 1996.

8. Keeping in view the above, no interference is warranted in the present petitions and accordingly, the same are dismissed.

9. The pending application(s), if any, shall stand(s) disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

13.09.2023
D.Bansal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No