

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

234-A

**CWP-12109-2019 (O&M)
Date of Decision: 28.02.2023**

RAJPAL

... Petitioner

Versus

STATE OF HARYANA AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. JL Goyal, Advocate
for the petitioner.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for issuance of a writ in the nature of Certiorari quashing the impugned order dated 07.03.2019 (Annexure P-7) passed by respondent No.2, vide which respondents No.3 and 4 have been promoted to the post of Elementary School Headmaster (ESHM).

Learned counsel for the petitioner submits that the petitioner was appointed as Junior Basis Teacher (JBT) on 12.10.2000; that the petitioner was promoted to the post of Trained Graduate Teacher (TGT) Sanskrit on 14.12.2005; that, as per the Service Rules, 2012, the petitioner is fully eligible for promotion to the posts of Elementary School Headmaster and that vide order dated 07.03.2019, the persons junior to the petitioner has been promoted to the posts of Elementary School Headmaster, whereas the case of the petitioner has been rejected, arbitrarily.

Learned counsel for the petitioner further submits that in the short reply dated 27.10.2022, the respondents-State has taken a specific stand that since CWP-2200-2022 titled as Shakti Dhar Sharma and others vs State of Haryana and others, was pending before this Court, in which, vide order dated 07.02.2022, status quo was ordered, no fresh case either for promotion of the petitioner or reversion of respondents No.3 and 4 can be considered and that once the status quo is vacated, the case of the petitioner will be considered afresh, in view of the seniority list dated 15.01.2019. The relevant extract of the order dated 07.02.2022 passed by a Coordinate Bench of this Court, would read as under:-

'.....Notice of motion.

Mr. Kiran Pal Singh, AAG., Haryana, accepts notice on behalf of the respondents and prays for some time to seek instructions/ file reply, if necessary.

At request, adjourned to 18.05.2022.

Status quo regarding petitioners post be maintained till the next date of hearing'.

Learned counsel for the petitioners further submits that CWP-2200-2022 aforesaid has now been disposed of vide order dated 21.11.2022 by the Coordinate Bench of this Court, the relevant part whereof reads as under:-

'.....Learned counsel for the respondents submits that the said arguments only bring out apprehension and not the fact. Whatever justification the petitioners will raise qua the show cause notice, the same will be considered in accordance with law coupled with the Rules governing the service and then

appropriate order on the show cause notice issued to the petitioners, will be passed.

Learned counsel for the petitioners submits that keeping in view the said statement of the counsel for the respondents, the petition be disposed of as having been not pressed any further with liberty to the petitioners to file appropriate reply to the show cause notice, which has been issued to the petitioners proposing the reversion to the post of Sanskrit Teacher.

Ordered accordingly.

The State counsel is requested to consider all the justifications which the petitioners raise in their reply to the show cause notice and also the fact that the promotion to the post of Elementary School Headmaster is in litigation since long and a correct order can end the said litigation once for all.

Learned counsel for the petitioners also seeks liberty to challenge the seniority list. The said right is an independent right and in case the petitioners are aggrieved against any seniority list, they can avail appropriate remedy available to them in accordance with law.

A photocopy of this judgment be placed on the file of another connected cases'.

Learned counsel for the petitioner further submits that though CWP-2200-2022 has been disposed of, yet the case of the petitioner has not been considered, till date. He further submits that in compliance of the directions issued by the Coordinate Bench of this Court in CWP-26354-2017, vide order dated 01.10.2019/07.10.2020,

some more candidates, who were juniors to the petitioner, have been promoted to the post of Elementary School Headmaster w.e.f. 04.09.2017.

On the other hand, learned State counsel submits that the respondent-Department is in the process of considering the case of the petitioner as well as other similarly situated employees, for promotion to the posts of Elementary School Headmaster, in view of the seniority list dated 15.01.2019 and against available vacancies and that the said process will be finalized within a short span of time.

I have heard the learned counsel for the parties.

It is not in dispute that in CWP-2200-2022, the status quo was earlier granted by a Coordinate Bench of this Court. However, the said petition has now been disposed of vide order dated 21.11.2022. It has also not been disputed that in compliance of the directions passed by a Coordinate Bench of this Court in CWP-26354-2017, some more junior candidates, have been promoted as Elementary School Headmasters w.e.f. 04.09.2017.

As per the learned State counsel, the respondent-Department is in the process of considering the case of the petitioner and other similarly situated employees.

In view of the above, respondent No.1-Additional Chief Secretary, Government of Haryana, is hereby directed to consider the case of the petitioner and other similarly situated employees, for promotion to the posts of Elementary School Headmaster, as per the seniority list dated

15.01.2019 and against available vacancies, within a period of three months, from the receipt of the certified copy of this order, in accordance with law.

Disposed of in the above terms.

28.02.2023

(HARNARESH SINGH GILL)

Aman Jain

JUDGE

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