

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-10626-2023

Decided on: 17.05.2023

Preetpal and another

....Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Charanji Lal, Advocate, for the petitioners.

Mr. R.S. Budhwar, Addl. AG, Haryana.

HARNARESH SINGH GILL, J.

Petitioners seek issuance of a writ in the nature of Certiorari quashing the impugned order dated 03.05.2023 (P.17), whereby promotion of the petitioners from the posts of Elementary School Headmaster, has been withdrawn.

Learned counsel for the petitioners would vehemently argue that the cases of the petitioners for promotion to the posts of Elementary School Headmaster, were processed through proper channel and they were promoted as such on 24.08.2019 and since then they have been working as such. It is further submitted that post their promotion as Elementary School Headmasters, they were transferred to different stations and even in the transfer orders, they were shown as Elementary School Headmasters.

It is further argued that on 20.03.2023 i.e. after almost four years of their promotion, the petitioners were issued notices calling upon them to appear in person in the office of the Additional Directorate Administration on 22.03.2023; that the petitioners approached respondent No.2-Director, Elementary Education Haryana on 24.03.2023 and showed all the documents that were required and that they were assured that their promotion would not be disturbed. It is further contended that the petitioners were shell-shocked when they came to know that vide order dated 03.05.2023 passed by the Additional Director, Administration, Elementary Education, Haryana, the promotion of the petitioners to the posts of Elementary School Headmaster, was withdrawn.

Learned counsel for the petitioners would, thus, submit that the impugned action on the part of respondent No.2 is totally illegal and as a matter of fact reasons for such withdrawal smack vice of arbitrariness. It is further submitted that when there was no misrepresentation, fraud or concealment on the part of the petitioners, the respondents are restrained from withdrawing the promotion granted to them.

In support of his contentions, learned counsel for the petitioners would rely upon the judgment of the Hon'ble Supreme Court in Sanatan Gauda Vs. Berhampur University and others, (1990)3 SCC 23; Allahabad High Court judgment in Neelu Dwivedi Vs. Artificial Limbs Manufacturing Corporation of India and others, MANU/UP/1132/2021; Orissa High Court judgment in Pratima Sahoo Vs. State of Orissa and Ors.,

MANU/OR /0259/2020 and a Coordinate Bench judgment of this Court in M/s Balak Gases Oxygen Gas Plant and another Vs. State of Punjab and others, 2012(4) RCR (Civil) 413.

On the other hand, Mr. R.S. Budhwar, Addl. AG, Haryana, who is present in Court, on service of an advance copy of the petition, submits that in this case, the petitioners' detail (including promotional post) were wrongly updated on Management Information System (MIS) along with the other newly promoted Elementary School Headmasters and as a matter of fact, the petitioners were never promoted to the posts of Elementary School Headmaster and now vide the order under challenge, the said mistake has been corrected by respondent No.2. It is further submitted that even in response to the show cause notices issued to the petitioners, they could not point any illegality in the proposed action of the respondents to update the correct factual position on MIS Portal.

I have heard learned counsel for the parties.

A perusal of the contents of the petition along with the documents annexed, it would decipher that the petitioners have not annexed with the writ petition any document or communication issued by the respondent-Department regarding their promotion to the posts of Elementary School Headmaster. Rather, they have relied upon their details on the MIS Portal maintained by the respondents. The details therein indicate the petitioners' rank as Elementary School Headmaster, but the fact remains that it is the stand of respondent No.2 that the details of the petitioners had wrongly been updated and as a matter of

fact, they had never been promoted. The impugned order speaks so.

When countered with the query if the petitioners are in possession of any order/communication/letter issued by the respondent-Department regarding their promotion as Elementary School Headmasters, learned counsel for the petitioners answers in negative.

Though at the first instance, the submissions advanced by learned counsel for the petitioners appear forceful, yet when read with the contents of the writ petition and the factual position narrated above, including there being no letter/communication/ order issued by the respondent-Department, as regards the promotion of the petitioner, this Court, is left with no choice, except to proceed with the stand of the respondents that the petitioners had never been promoted. When there was no promotion at any time, mere enjoying such position on account of wrongly updated details on the MIS Portal would give no right to the petitioners to seek a mandate from this Court so as to have a stamp of approval on their alleged promotion.

The judgments relied upon by the learned counsel for the petitioners are not applicable to the facts of the present case.

Sanatan Gauda' case (supra), pertains to the interpretation of the Rules framed by the University. It was held by the Hon'ble Apex Court that when a student was not accused of any fraud or misrepresentation, the action of the University in not declaring his result, was bad in law.

In Neelu Dwivedi's (case), the Allahabad High Court held that the Departmental inquiry regarding the eligibility of the appellant therein, after 20 years of her service, was unsustainable in law, particularly when the Department had been in possession of all the relevant material since the very beginning of the employment of the petitioner therein.

In Pratima Sahoo's case (supra), the Orissa High Court, has negated the action of the respondents that while giving the petitioner therein, appointment as a Sikhya Sahayak, on wrong combined calculations of marks obtained in B.A. and B.Ed., there was no misrepresentation on the part of the petitioner.

Balak Gases Oxygen's case (supra) relates to promissory estoppel. In the said case, it was found that the petitioner had made huge investments keeping in view the policy of the respondent-authorities and thus, the action of backtracking on the part of respondent-authorities, was set aside.

None of the aforesaid judgments, has any bearing on the facts of the present case. As noticed above, as regards their promotion, the petitioners are relying upon the action of the respondents, in showing them as Elementary School Headmaster on the MIS Portal, whereas the impugned order shows that said details were wrongly incorporated and by way of the impugned order, only a correct position has been highlighted. Though at the cost of repetition, it may be noticed

that petitioners have not been able to show any promotion order or the decision of the respondent-Department to this effect.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

17.05.2023
ds

(HARNARESH SINGH GILL)
JUDGE

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