

2023:PHHC:064500

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-12949-2020 (O&M)

Date of Decision: 04.05.2023

SUNIL KUMAR

... Petitioner

Versus

STATE OF HARYANA AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Mohit Garg, Advocate
for the petitioner.

Mr. Sunil Kumar Vashisth, DAG, Haryana.

Mr. Sanjeev Kodan, Advocate
for respondent No.3.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for issuance of a writ in the nature of Certiorari quashing the order dated 26.05.2020 (Annexure P-6), vide which the dates of promotion of the petitioner to the post of Senior Lecturer and Head of Department, have been disturbed and changed.

Learned counsel for the petitioner submits that on 23.05.1995, the petitioner was appointed as Lecturer, Applied Chemistry in Technical Education Department; that at the said time, there was a common cadre in Polytechnic, Department of Technical Education, Haryana; that on 31.03.2003, the existing posts in the Polytechnic, Department of Technical Education, were restructured and the common cadre was bifurcated; that on the basis of said restructuring, 82 new posts were created in the year 2004-05 and thereafter, another 62 new posts

were created in the year 2005-06 and that the said restructuring was done subject wise and the common cadre of Applied Science was split into Physics, Chemistry, English and Mathematics. He further submits that promotion of the petitioner to the posts of Senior Lecturer and Head of Department on 03.12.2004 and 27.08.2007 respectively, was made considering the Rules and restructuring policy, prevailing at the relevant time.

Learned counsel for the petitioner further submits that vide order dated 04.09.2012 of the Principal Secretary, Government of Haryana, Technical Education Department, the restructuring policy of the year 2003, was restored to its original position and common cadre of the subjects of Physics, Chemistry, Mathematics and English was made applicable in the Government Polytechnic Colleges. He further submits that now vide impugned order dated 26.05.2020 (Annexure P-6) passed by the Principal Secretary, Government of Haryana, Technical Education Department, the date of promotion of the petitioner to the post of Senior Lecturer has been changed from 03.12.2004 to 06.12.2005 and to the post of Head of Department from 22.08.2007 to 01.02.2012, keeping in view the provisions of Technical Education Department (Group-A) Service Rules, 1986.

While relying upon the judgment delivered by the Hon'ble Apex Court in M.S. Usmani vs Union of India, 1995(2) SCC 377, learned counsel for the petitioner submits that reversion on account of restructuring of the cadres, cannot be done. He, thus, prays that the present petition be allowed and the impugned order be set aside.

On the other hand, learned State counsel and learned counsel for respondent No.3 submit that vide order dated 04.09.2012 of the Principal Secretary, Government of Haryana, Technical Education Department, the restructuring policy of the year 2003, was restored to its original position and common cadre of the subjects of Physics, Chemistry, Mathematics and English was made in the Government Polytechnic Colleges; that the order dated 26.05.2020 has been passed in consonance with the order dated 04.09.2012 and that the order dated 04.09.2012 has not been challenged by the petitioner and thus, the present petition is liable to be dismissed.

In support of his contentions, learned counsel for respondent No.3 relies upon the orders dated 14.11.2006 and 08.09.2016 passed by this Court in CWP-13142-2006 titled as Smt. Ranjit Kaur Vs State of Punjab and others and CWP-18161-2016 titled as Prem Singh Vs Board of Governor and others.

I have heard the learned counsel for the parties.

As noticed above, the promotional orders dated 03.12.2004 and 22.08.2007 of the petitioner to the posts of Senior Lecturer and Head of Department were passed keeping in view the provisions of Technical Education Department (Group-A) Service Rules, 1986 and the Rules prevailing at that stage i.e. restructuring of the common cadre of Applied Science into Physics, Chemistry, English and Mathematics subjects. The said restructuring was restored to its original position on 04.09.2012. Thus, it cannot be said that the promotions given to the petitioner were made without following or considering the relevant Rules.

Restoration of the earlier policy at a later stage, cannot be taken a ground to disturb the promotions done in the interregnum that too when such course has followed the relevant and applicable Rules, at the relevant time.

The judgments relied upon by the learned counsel for respondent No.3, are not applicable to the facts of the present case.

In view of the above, the present petition is allowed and the impugned order dated 26.05.2020 (Annexure P-6) passed by Principal Secretary, Government of Haryana, Technical Education Department, is set aside.

04.05.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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