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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23673-2013 (O&M)

Date of Decision: 16.10.2023

VIJAY SINGH

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Puneet Gupta, Advocate for
Mr. Saurabh Arora, Advocate,
for the petitioner.

Mr.Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner has preferred this Writ Petition for issuance of a Writ in the nature of *certiorari* quashing the order dated 27.09.2013 issued on 10.10.2013 (Annexure P-7) passed by respondent No.1 whereby the petitioner has been ordered to be reverted from the post of Lecturer, which was ordered by respondent No.1 on 16.05.2012 (Annexure P-2).

2. Learned counsel for the petitioner has stated that the petitioner he was promoted to the post of Lecturer in Political Science vide order dated 16.05.2012. A Committee was constituted to make recommendations/suggestions after examining the matter of wrongful promotions to the post of Lecturers from the post of Masters by the Departmental Promotion Committee (DPC) held from 13.12.2011 to 15.12.2011, and it was decided that the seniority shall be first determined in accordance with law and the promotions will be reviewed thereafter by the DPC and till then, keeping in view the norms of natural justice, persons already promoted, were to be

allowed to continue as such till promotions are made fresh after finalizing the seniority.

3. In a separate judgment passed by this Court in Dilbag Singh and Others Vs. State of Punjab and Others decided on 22.04.2013, the coordinate Bench of the Court took note of the aforesaid decision taken by the State Authority and made observations that principles of natural justice can be adhered to, with further directions to the respondents to complete the exercise within three months.

4. Learned counsel for the petitioner submits that the order dated 27.9.2013/10.10.2013 was served upon the petitioner whereby reversion orders have been issued, and a charge-sheet under Rule 8 of the Punjab Civil Services (Punishment & Appeal) Rules, 1970 has been sent to the DPI. The Enquiry Officer and Presenting Officer were also appointed to conduct enquiry with further direction to the Enquiry Officer to complete enquiry proceedings and submit her report within a period of one month.

5. Challenging the said order, learned counsel for the petitioner submits that the petitioner had not been served with any show cause notice before reverting him, although such a decision was taken not to revert persons till final seniority was prepared, and the High Court had also directed to follow the principles of natural justice. On the basis of the arguments advanced by the counsel for the petitioner, this Court at the time of issuing notices, directed *status quo* to be maintained as it existed on that day. The said interim order continued from time to time and learned counsel for the petitioner submits that the petitioner has attained superannuation while holding the post of Lecturer on 28.02.2018 and 100% provisional pension has

been released to him. Other retiral benefits have also been released. However, the interest on late payments of the pension, gratuity and leave encashment also required to be released to him.

6. Learned counsel for the petitioner submits that benefit of grant of ACP on completion of 4/9/14 years of service have not been released to the petitioner and the arrears so calculated be also released along with interest at the rate 18% per annum.

7. Learned counsel for the petitioner submits that the respondents had indifference to the interim order had passed order of reverting the petitioner on 16.01.2014, but having come to know about the interim order, they have withdrawn the said order of reversion vide order dated 03.03.2014.

8. The petitioner submits that the charge-sheet was relating to getting promoted and was sent to him on 30.12.2013. Another enquiry has been initiated on the ground of the file being missing relating to reversion orders and wrongful charge sheet was issued to the petitioner. However, On account of *status quo* order passed by this Court, the enquiries remained stayed.

9. *Per contra*, learned State counsel has filed a detailed reply and has stated that the petitioner had wrongfully projected himself to be regularly appointed as a Master from the year 1997, resulting in being promoted out of turn on the post of Lecturer, whereas, in fact, the actual date of entry in the Master cadre was from 05.02.2004. He had also mentioned in all his ACRs that his date of entry in the present cadre i.e. the Master cadre from which promotion is to be awarded to the post of Lecturer as 1.1.1997 which was wrongful and by playing fraud, the petitioner was able to get himself

promoted to the post of Lecturer. It is also stated that a charge-sheet was issued to him on 30.12.2013, but nothing further could be done in view of the *status quo* order passed by this Court.

10. It is also stated that the petitioner has been *prima facie*, found to be guilty of misplacing the files and orders which were issued relating to his reversion. A charge-sheet in this regard was also issued to him and to the other officers who were responsible with regard misplacing of the said file. It is stated one of the original file has been located from where the revision order could be passed, but in view of the *status quo* order, the same was withdrawn subject to the decision of this case.

11. I have considered the submissions of counsel for the parties.

12. This Court finds that the order of the Committee for re-examining the promotions on the basis of determination of seniority and protecting the concerned persons till the determination of seniority is finalised, has no reference to the present case of the petitioner. In the case of petitioner, it was found that he had played fraud with the State authorities and had obtained his promotion wrongfully by projecting himself in the Master cadre from 01.01.1997, although he was actually promoted in Master cadre in the year 2004. It is also noticed that a charge sheet in this regard was issued, but on account of the order passed by this court of *status quo*, no decision could be taken in the departmental enquiries or in the criminal case, and the petitioner continued to perform duties as a Lecturer and attained superannuation as a Lecturer, although he could not be continued in view of

the fraud played by him. The continuance of the petitioner as a Lecturer is found to be on the basis of the order passed by the Court of *status quo*.

13. In the opinion of this court, the petitioner had come before the Court, on that day there was no reversion order and only charge-sheets had been served upon him. Against the charge-sheets, Writ Petition was not maintainable as neither he had filed reply to the said charge-sheets. In fact, one of the charge-sheets had been served upon him on the day when he came before this Court. Different picture was sought to be made by the petitioner which resulted in passing of the order of *status quo*. It was stated that seniority in the Master cadre has not been determined, although the case of the petitioner was on a different footing.

14. The charge-sheet in which the Enquiry Officer had been appointed, was a different charge-sheet than which was relating to the missing of file, which had been served upon him. While the other charge-sheet relating to his submission of fraudulent record of service was subsequently issued on 30.12.2013.

15. This Court is of the firm view that on account of the orders passed by this Court, no party should be made to suffer. In the present case, State Government has been deprived of taking appropriate action against the petitioner and it is on the basis of interim order of *status quo* that he continued to work as Lecturer although he was not entitled to hold the said post as he was wrongly promoted based on his fraudulent act of mentioning his appointment in the Master cadre from 01.01.1997 in instead of 2004. Other persons who would have been promoted in his place have also been deprived. This Court has to therefore set right the wrong which was

apparently done by passing an interim order in favour of the petitioner although he did not deserve the same.

16. Having noticed the aforesaid observations on merits, this Court also finds that the petitioner has no case for interference in the order dated 27.09.2013 where the only decision was taken to appoint the Enquiry Officer and directions were issued to conduct an enquiry within a period of one month. The orders were also issued for reverting him from the post, but before the actual orders could be passed, he has approached the Court. At that time, no cause of action has arisen in his favour, therefore, the Writ Petition was not maintainable at that stage.

17. In view of the aforesaid observations, the interim order passed by this Court on 28.10.2013 as well as continuance of the said interim order are hereby vacated. The respondent-State is allowed to continue and proceed with the departmental enquiry against the petitioner. The petitioner will be treated to have been reverted on the lower post and accordingly, if any recoveries are required to be made, the same may also be done from the petitioner.

18. The retirement of the petitioner will have no effect on the departmental proceedings or in the order passed by this Court herein today with regard to reversion and recoveries. The petitioner would, however, be entitled to receive the pension and retiral benefits, treating him as in the Master cadre. After the conclusion of the enquiry, if the petitioner is found to be exonerated of the charges, he would be entitled to all consequential benefits including service and other benefits.

19. Considering that the petitioner had been superannuated in the year 2008, it is directed that the departmental enquiries against the petitioner be concluded within a period of six months henceforth.

20. The Writ Petition is disposed of in the aforesaid terms.

October 16, 2023

Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

Whether speaking / reasoned	:	Yes	/	No
Whether Reportable	:	Yes	/	No