

104

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-14866-CWP-2023 in/and
CWP-3221-2012 (O&M)
Date of Decision: 12.09.2023

Jarnail Singh

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Naresh Kaushik, Advocate
 for the petitioner.

Mr. Paramjit Batta, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner has moved an application no.*CM-14866-CWP-2023* seeking preponing of the main case.
2. For the reasons assigned in the application, the same is allowed and the main case is taken on board today itself.
3. Case heard on merits.
4. Learned counsel for the petitioner submits that the petitioner belongs to disabled category and was entitled for 3% quota for promotion to the post of Circle Head Teacher. The petitioner was holding the post of Head teacher and there were 87 sanctioned posts of Circle Head Teacher/Centre Head Teacher, and the petitioner was therefore entitled under the 3% quota for promotion.

5. Earlier, this Court passed an order on 03.04.2013 as under:

“Petitioner has approached this Court claiming promotion to the post of Circle Head Teacher as per the instructions dated 5.7.2011 (Annexure P-8) which provides for 3% reservation in promotion of the handicapped category. It is asserted that the petitioner is 62% locomotor disabled and, therefore, having been promoted to the post of Head Teacher on 29.8.2005, was eligible for consideration for promotion to the post of Circle Head Teacher when the instructions dated 5.7.2011 came into force. As per the policy of the State posts falling at Sr. No. 11, 40 and 71 roster points have been reserved for the handicapped category. The claim of the petitioner has been responded to by the respondents by filing a counter affidavit wherein the main plank of the respondents appears to be that the petitioner has retired on 31.3.2012 on attaining the age of 58 years and, therefore, he is not entitled to for consideration for promotion. No detail whatsoever with regard to the claim of the petitioner for consideration for promotion on 5.7.2011, the date when the instructions came into force, has been mentioned nor it is mentioned as to whether there is any other person who is handicapped and holding the post of Circle Head Teacher. Detailed affidavit in response to the claim as made in the present petition is, therefore, required to be filed by the respondents. Needful be done within a period of four weeks.

List for further consideration on 15.5.2013.

Copy of the order be given dasti to the State counsel under the signatures of the Bench Secretary.”

6. Then, the State through its Director Public Instruction filed an additional affidavit answering to the aforesaid query raised by this Court and it has been stated as under:

“4. That in this regard it is respectfully submitted that in District Hoshiarpur no promotion in the category of the physically Handicapped/ortho petitioner was made. It is further submitted that there are 87 sanctioned posts of Circle Head Teacher/Centre Head Teacher and according to roster point 11, 40, 71 there are 3 posts reserved for Handicapped category. It is further submitted that no promotion in this category has been done since 28.12.10. It is again respectfully submitted

that except petitioner there is no other candidate in this category claiming the promotion.

5. That it is respectfully submitted that petitioner was not considered for promotion in this category because after 28/12/10 no DPC was held. It is further submitted that after the pay revision the cadre of the petitioner falls in group B and group B promotions being done by Departmental promotion committee. It is further submitted that in District Hoshiarpur not even a single Head Teacher of any category has been promoted as Circle Head Teacher after 28/12/10) the question does not arise to ignore the promotion of the petitioner.”

7. Learned counsel for the State submits that as no exercise for promotion has been conducted after 28.12.2010 and the post which falls in Group-B is to be filled only by recommendations from Departmental Promotion Committee, the petitioner could not be granted promotion unless the DPC is convened and promotions are made.
8. This Court finds that no right of promotion is available to the petitioner. The only right available is for consideration for promotion. As there is no exercise conducted for making promotions after 28.12.2010, and the DPC had never convened upto the period when the petitioner retired on 31.03.2012, on attaining age of 58 years, he therefore could not be considered for promotion during the time till he had attained superannuation age.
9. After the said period, it is not the case of the petitioner that persons have been given promotion from retrospective date.
10. In view thereof, it cannot be said that the case of the petitioner was ignored for promotion, or persons lower in seniority have been promoted.

- 11.In these circumstances, claim of the petitioner for promotion is not made out.
- 12.Writ Petition is devoid of merits and is accordingly dismissed.
- 13.Pending application(s), if any, also stands disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

September 12, 2023
Mohit goyal

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |