

IN THE HIGH COURT OF PUNAJB AND HARYNA AT
CHANDIGARH

CWP No.16014 of 2017 (O&M)

Reserved on:12.01.2023

Pronounced on: 23.02.2023

Ajit Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rajender Singh Malik, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. R.K. Malik, Senior Advocate with
Mr. Varun Veer Chauhan, Advocate
for respondent No.3.

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JAISHREE THAKUR J.

1. The present writ petition has been filed by the petitioner for issuance of a writ in the nature of certiorari for quashing order dated 31.01.2017 (Annexure P-6) and for modification of the promotion orders of the petitioner dated 03.04.2014 and 12.09.2016 (Annexure P-8 and P-9), with a further prayer to issue a writ in the nature of mandamus, directing respondents No.1 and 2 to grant benefits of promotion to the petitioner from due date i.e. to the post of Superintendent with effect from 08.08.2010 in place of 23.07.2012, to the post of Assistant Registrar with effect from 08.08.2013 instead of 31.01.2017 and to the post of Deputy Registrar on eligibility i.e. 08.08.2017 as well as to grant higher pay scale i.e. from 10.03.2014 to 09.11.2016 in lieu of full additional charge of

higher post of Superintendent Incharge, General Branch etc. given to the petitioner.

2. In brief, facts are that Chhotu Ram State College of Engineering (CRSCE), Murthal, Sonipat was established in 1987 by the Government of Haryana. Subsequently, the college became a constituent institute of Deenbandhu Chhotu Ram University of Science & Technology, Murthal, Sonipat i.e. Respondent No. 2, established under the Haryana Act No.29 of 2006 vide Government of Haryana notification dated 06.11.2006. It was also notified vide order dated 04.12.2006 that the existing rules and regulations and procedure being followed by Guru Jambheshwar University of Science & Technology, Hisar shall be applicable, as such, in respect of all the matters related to the Deenbandhu Chhotu Ram University of Science & Technology, Murthal (Sonipat) for smooth functioning of the affairs of this University.

3. The petitioner was appointed as Clerk-cum-Typist on adhoc basis on 19.10.1987 and his services were regularized on 19.10.1998. Thereafter, he was promoted to the post of Assistant on 10.03.1995. A final seniority list dated 03.01.1995 (Annexure P-1), as on 01.05.1994, of Class III & IV employees was circulated vide letter dated 03.01.1995. The petitioner was placed at serial No. 4 of the seniority list, whereas respondent No.3 namely Sh. Joginder Singh was placed at serial No.22 of the same seniority list. The *ad hoc* services of the petitioner (Clerk) were regularized on 19.10.1988, whereas Sh. Joginder Singh (Steno-Typist) had joined on 27.08.1991 on *ad hoc* basis and his services were regularized on 27.08.1992.

4. The petitioner was promoted from the post of Assistant to the post of Deputy Superintendent on 08.08.2008 (after 13.5 years of service). He was given promotion from the post of Deputy Superintendent to the post of Superintendent on 23.07.2012 and subsequently promoted as Assistant Registrar on 31.01.2017 on completion of 8 ½ years in supervisory capacity i.e. from 08.08.2008 onwards. On the other hand, promotion was granted to Sh. Joginder Singh (Respondent No.3), who is junior to the petitioner, to the post of Assistant Registrar with 4 years experience only.

5. Learned counsel appearing on behalf of the petitioner has argued that the promotions as given to the petitioner were highly delayed. His promotion to the post of Superintendent was due on 08.08.2010 but he was given promotion to the post of Superintendent on 23.07.2012 i.e. after a delay of about 2 years. The promotion of the petitioner to the post of Assistant Registrar was due on 08.08.2013 whereas he was promoted to the post of Assistant Registrar on 31.01.2017 i.e. after a delay of about 3 ½ years as per relevant service rules. In fact, he was assigned duties of higher posts of Assistant/Deputy Registrar vide order dated 3.4.2014 and he worked against the said post till November 2017 without fixation of a higher scale and grade pay of Assistant Registrar. Petitioner made a request to grant higher pay scale for having worked against a higher post, which has been declined. It is argued that the petitioner has been discriminated as he has been denied promotion to the post of Assistant Registrar despite being senior to respondent No.3, who has been promoted much earlier i.e. on 26.09.2012. It is submitted that promotion of Sh. Joginder Singh, Personal Assistant, to the post of Superintendent was in

violation of existing service rules, since there is no provision of promotion of Personal Assistant to the post of Superintendent and also in violation of seniority of about 18 employees. Many of the senior employees to him are still awaiting their promotion to the post of Superintendent/Assistant Registrar.

6. Per contra, learned counsel appearing on behalf of the respondent-University would argue that the writ petition is highly belated since he is seeking to challenge the action of the University of not promoting him in time as along with respondent No.3 who was promoted in September 2012, and in fact there is no challenge to the promotion of Respondent No.3. It is further argued that petitioner has already retired on 28.2.2018. Moreover the channels of promotion for the petitioner and the respondent No.3 were entirely different.

7. I have heard the counsel for the parties and with their assistance have gone through the pleadings.

8. Admittedly the petitioner herein was appointed as a Clerk-cum-Typist on *ad hoc* basis on 19.10.1987 and his services were regularized on 19.10.1998. Thereafter, he was promoted to the post of Assistant on 10.03.1995, as Superintendent on 2008 and subsequently as Assistant Registrar in 2017. He now claims that he should have been promoted as Assistant Registrar in 2012, when promotion was given to respondent No.3. The petitioner was appointed as Clerk in the ministerial cadre and respondent No.3 as Steno Typist in the Stenography cadre. The channel of promotion of the employees is given below:-

STENOGRAPHIC CADRE	MINISTERIAL CADRE
1. Steno-Typist	1. Clerk
2. Junior Scale Stenographer	2. - - -
3. Senior Scale Stenographer	3. Assistant
4. Personal Assistant	4. Deputy Superintendent
5. Private Secretary	5. Superintendent

9. The Executive Council of the University approved the Service Rules for promotion to the post of Assistant Registrar in its 16th meeting held on 30.03.2012 and the qualification prescribed to fill up the post of Assistant Registrar by way of promotion is as under:-

“i. A Bachelor’s degree/LL.B.

OR

B.E./B.Tech or its equivalent

ii. Must have 5 years administrative experience in a supervisory capacity in Govt./Semi Govt. or Professional Educational University/Organization out of which 03 years as Superintendent in a University/Examining Body conducting public examinations.

iii. Should have good knowledge of working on computer.

iv. Knowledge of Hindi/Sanskrit upto Matric/10th Standards.

10. Respondent No.3 was promoted to the post of Superintendent from the post of Personal Assistant on 21.10.2008, which according to the petitioner was wrongly done and from the post of Superintendent to the post of Assistant Registrar on 27.09.2012 after approval of the Executive Council of the University, which promotion were never challenged by the petitioner herein. It would be pertinent to note that the petitioner belongs

to the Ministerial Cadre whereas respondent No.3 is in the Stenographic Cadre. At the present moment, petitioner herein has not been able to establish that any one junior to him under Ministerial Cadre has superseded him and stands appointed as Assistant Registrar, prior to the promotion given to the petitioner as on 31.01.2017. The petitioner raised challenge to promotion of respondent No.3 as Superintendent and Assistant Registrar after a period of 9 years and 5 years respectively. Therefore, the writ petition is without merit and also highly belated.

11. Learned counsel appearing for the petitioner also raised an argument that the petitioner was assigned duties of Superintendent Incharge of General Branch vide order dated 04.03.2014 and Incharge, Sanitation vide office order dated 03.04.2014 in place of Dr. Jagvender Singh, Deputy Registrar (Academic Branch) and therefore, he is entitled to the higher pay for performing duties of higher post. He relied upon the noting dated 29.09.2015 obtained by the petitioner under the Right to Information Act wherein while quoting Rule 4.22 (i) of Pb CSR Vol. 1 Part 1 it is noted that *'if he is given full charge in addition to his own duties of the higher post of his cadre he may be given the pay in the pay scale of higher post.* This argument is also *sans* merit. A further perusal of said notings would reveal that on 29.02.2016, there was a note made that Rule 4.22 (iv) of CSR Vol. 1 Part 1 provides that no additional pay shall be admissible to the Govt. employee who is appointed to hold current charge of routine duties of another post or posts regardless of the duration of additional charge, while further noting that Sh. Ajit Singh, Superintendent shall be Superintendent Incharge of the General Branch,

hence, as per Rule 4.22 (iv), case of the petitioner is covered under the Rule. A perusal of the aforesaid note reveals that as per Rule 4.22 (iv) of CSR Vol.1 Part 1, no additional pay shall be admissible in case a government employee holds a current duty charge of routine duties of another post, therefore, claim of the petitioner stood rejected. Rule 4.22 of Punjab CSR Vol. 1 Part 1 is reproduced as under:-

“4.22 The competent authority may appoint one Government employee to hold substantively, as a temporary measure or to officiate in, two or more independent posts at one time. In such cases, the Government employee shall draw the highest pay to which he would be entitled if his appointment to one of the posts stood alone:

Provided that the employee must fulfill the requisite qualifications and conditions for services for both the posts.

12. Proviso attached to Rule 4.22 *ibid* would reveal that to be eligible to draw higher pay in lieu of performing duties of a higher posts, a government employee must fulfill the requisite qualifications and conditions of the said higher post as well. In the present case, petitioner was given promotion to the post of Superintendent on 23.07.2012 and for Assistant Registrar, there must be 5 years administrative experience in a supervisory capacity in Govt./Semi Government or Professional Educational University/ Organization out of which 3 years as Superintendent in a University/Examining Body conducting public examinations. The petitioner was given the additional charge of Superintendent Incharge of General Branch by relieving Dr. Jagvender

Singh, Deputy Registrar on 04.03.2014 and therefore, at that time, he had only 1 year and 8 months experience as Superintendent. Since he was not fulfilling the requisite condition of experience for the post of Assistant Registrar, he is not entitled for higher pay while performing the duties of higher post, as mandated by proviso attached to Rule 4.22.

13. In view of the aforesaid facts and circumstances, this Court finds no merit in the writ petition and consequently, the same stands dismissed.

(JAISHREE THAKUR)
JUDGE

February 23, 2023

Pankaj*

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No