

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

212

CWP-19706-2017

Date of Decision: 28.07.2023

Jaswinder Singh and others

.... Petitioners

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Ms. Shailja Sharma, Advocate, for
Ms. Sonia G. Singh, Advocate
for the petitioners.

Mr. R.K. Kapoor, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to grant the promotion to the petitioners w.e.f. 22.09.1998.

2. The case of the petitioners in short is for giving promotion to Master cadre w.e.f. 22.09.1998 in terms of a judgment passed in their favour by this Court on the said date. It is their case that the petitioners were party in CWP-5125-1997, which was disposed of by this Court on 22.09.1998 directing the respondents to consider their case for promotion to Master cadre. However, the directions were ultimately complied with and promotion was awarded to the petitioners on 30.10.2000. Learned counsel for the petitioners submits that while the order was passed on 30.10.2000, it should relate back from the date, the writ petition of the petitioners was

allowed by this Court i.e. on 22.09.1998.

3. Learned counsel for the petitioners further points out that similarly situated other persons who approached this Court by way of CWP-21908-2010 was granted the national promotion to Master cadre w.e.f. 22.09.1998, which has been admitted by the respondents in their counter while the case of the petitioners has been denied in the counter solely on the ground that the petitioners have filed the present petition in the year 2017 and thus, their claim is being denied on the ground of delay and laches. He submits that the delay cannot be attributed to the petitioners and the fault lies on the respondents in not granting the benefit.

4. Per contra, learned State counsel has submitted that the petitioners should be aware of their own rights and they should have agitated their claim immediately after the order of promotion, which was passed on 30.10.2000. The writ petition suffers from delay and laches. It has also been stated that the vacancy of a promotional post can be claimed if the same is agitated within a time period as held by the Supreme Court in the case of *P.S. Sadashivaswami Vs. State of Tamil Nadu, AIR 1974 SC 2271*.

5. I have heard learned counsel for the parties at length and have considered the submissions.

6. The question arises whether the present petition suffers from delay and laches and therefore, the relief should be denied to the petitioners or not.

7. It is an admitted position that the petitioners had preferred a writ petition before this Court in the year 1997 bearing CWP-5125-1997 after a judgment was rendered by the Division Bench of this Court in the case of *Ram Niwas Vs. Haryana State Agriculture Marketing Board*, passed in *CWP-8154-1993*, after the promotion was denied to the petitioners

in the Master cadre. This Court vide order dated 22.09.1998, directed the respondents to consider their case for promotion with following directions:-

“After hearing the learned counsel for the parties, we dispose of this writ petition by directing the official respondents to give promotion to the category of the petitioners against the posts meant for their respective quota (if already not given) on the basis of their seniority, which would be determined as per Jagdish Lal and others Vs. State of Haryana etc. 1997(3) RSJ 1. Learned counsel for the respondents, however, states that the State Government has already moved an application in the Apex Court seeking clarification regarding the true import of Ajit Singh Januja etc. Vs. State of Punjab etc., 1996(2) RSJ and Jagdish Rai cases. In these circumstances, the promotions that may be made would be subject to the clarification/decision that may be rendered by the Apex Court regarding the true import of the aforesaid two judgments. This rider should be incorporated in the orders of promotion.”

8. In view of the aforesaid direction, the case of the petitioners was required to be considered. The respondents considered their case and promoted them, vide order dated 30.10.2000, the date of promotion as Masters. The quota of promotion is in relation to the year 1998 but exercise has been done in 2000. Similarly situated other petitioners preferred writ before this Court bearing CWP-21908-2010, which came to be allowed on 27.09.2016 and they were granted notional promotion w.e.f. 22.09.1998 against 15% quota of JBT teachers. In the opinion of this Court, the petitioners' claim was earlier to that who came before this Court in the year 2010. They were not required to file a fresh petition merely because they have again approached the Court in 2017 for their rightful claim, the same cannot be denied and they cannot be outstretched on the ground of laches.

In fact, the laches lie with the respondents in not complying with the orders timely.

9. Be that as it may, this controversy can be given a quietus now with directions to the respondents to relate the petitioners' promotion granted in 2000 from the back date of 22.09.1998 notionally, as has been given to the similarly placed other petitioners, whose writ petition was allowed on 27.09.2016 since the fact granting notional promotions to them has been admitted by the respondents.

10. Accordingly, the present petition is allowed in the aforesaid manner.

11. No order as to costs.

28.07.2023

D.Bansal

(SANJEEV PRAKASH SHARMA)
JUDGE

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