

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.19962 of 2017(O&M)

Date of Decision.23.03.2023

Saroj Mehta

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rahul Sharma-I, Advocate and
Mr. Arpandee Narula, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. GPS Bal, Advocate
for respondents No.3 and 4.

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JAISHREE THAKUR J. (ORAL)

1. This is a writ petition that has been filed under Article 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction including a writ in the nature of Certiorari for quashing of the notification dated 06.07.2017 (Annexure P-7).

2. In brief, facts are that the petitioner is working on the post of Programmer in the respondent-University since 08.12.2008. The channel of promotion prescribed for employees of the respondent-University in the Computer Cadre is Computer Assistant/DEO, Junior Programmer, Programmer, System Manager, Head Computer Centre. The Executive Council of the respondent-University in its 49th meeting held on 06.07.2016 constituted a Committee under the Convenorship of Dr. Raghuvendra Tanwar to review issues relating to non-teaching employees of the University, which was to submit its report to the Executive Council of the University. However, Dr. Raghuvendra Tanwar, Convenor of the Committee showed his inability to

complete the task assigned to him. The Vice Chancellor on 17.03.2017 constituted another Committee under the convenorship of Prof. Dilbag Singh and asked for recommendations regarding the channel of promotion for various posts of non-teaching staff of the University within a period of five days. As per Clause 13 (d) of the Statutes of the Chaudhary Devi Lal University, Sirsa, the Executive Council shall exercise following powers:-

“13. Powers of the Executive Council:- The Executive Council shall exercise the following powers, namely:-

(a) to (c)

xxxxxx

xxxxxx

(d) to create administrative, ministerial and other posts and to make appointments thereto, in the manner prescribed by the Statutes.”

3. Despite powers having been given to the Executive Council to create administrative, ministerial and other posts, the Vice Chancellor without authority had constituted a Committee under the convenorship of Prof. Dilbag Singh to recommend the channel of promotions for various posts of non-teaching staff of the respondent-University. Prof. Dilbag Singh gave his recommendation on 27.03.2017. As recommendations made by Prof. Dilbag Singh were not acceptable and had been prepared in a hurried manner without affording any opportunity of hearing to the employees, a grievance was raised by aggrieved persons to the Vice Chancellor by way of representation, however, no action had been taken on the same. Thereafter, recommendations of Prof. Dilbag Singh had been accepted by the Executive Council wherein promotion channel for Senior Technical Assistant and Computer Assistant/DEO stood approved as Computer Assistant/DEO to Senior Technical Assistant, then to Junior Programmer and thereafter to Programmer and System Manager respectively vide notification dated 06.07.2017. Aggrieved against the said notification, present writ petition has been filed.

4. Learned counsel appearing on behalf of the petitioner would urge that as per Section 14 of the Chaudhary Devi Lal University Sirsa Act, 2003, the respondent-University cannot create any teaching and non-teaching post or revise the pay scale of the teaching and non-teaching employees without prior approval of the State Government. It is further argued that as per instructions issued vide Memo dated 30.10.2013, for all issues regarding gradation, upgradation, downgradation and conversion of posts, it is essential for Universities to obtain approval of the State Government and the Finance Department. Even the administrative staff of the respondent-University had made a noting on the file on 27.04.2017 that approval of the State Government and the Finance Department should be obtained. However, this observation of the administrative staff was brushed aside by the Vice Chancellor and an explanation was called. It is further contended that notification issued by the respondent-University on 06.07.2017 is in contravention of the statutory provisions and directives, issued by the State Government, since approval had not been obtained.

5. Learned counsel appearing on behalf of respondent No.1 and 2 would refer to the short reply filed by the Additional Secretary to Government of Haryana, Higher Education Department, Panchkula wherein it is stated that as per Section 23 (3) (i) of the Chaudhary Devi Lal University Sirsa Act 2003, appointment to posts other than of Class-A shall be made by the Vice Chancellor after complying with the due procedure laid down in the rules or orders. Furthermore, the State Government is involved in the matters of University regarding creation of posts and revision of pay scales as per Section 14 of the Act *ibid*.

6. The respondent-University too has filed its reply stating that a Committee under the convenorship of Prof. Dilbag Singh was constituted by the Vice Chancellor to give recommendations regarding the channel of promotion for various posts of non-teaching staff of the respondent-University and the recommendations were considered by the Executive Council in its meeting held on 31.03.2017 and vide Resolution No.37, same were accepted. To give effect to the new channel of promotion, his Excellency, the Governor/Chancellor was duly informed. The non-teaching employees of the respondent-University were given opportunity to submit their claim in support of their promotional channel by the said Committee and thereafter, recommendations for promotion channel were put forth to the Executive Council.

7. I have heard learned counsel for the parties and have gone through the pleadings of the case.

8. It is an admitted fact that a Committee was constituted by the Vice Chancellor to be headed by Prof. Dilbag Singh to give recommendations regarding the channel of promotion for various posts of non-teaching staff of the respondent-University. The Executive Council in its 48th Meeting held on 13.07.2015 had created promotion channel for the post of Computer Assistant/DEO to Head Computer Centre, as detailed in para 3 of the writ petition, which promotion channel was subsequently changed on the recommendation of the Committee constituted by the Vice Chancellor and approved by the Executive Council in its 51st meeting held on 31.03.2017. The office memo No.18/23-2012 UNP (2) dated 30.10.2013 as issued by the Principal Secretary to Government of Haryana, Higher Education Department, Chandigarh clearly specified that it is essential for Universities to obtain

administrative approval of the State Government and the Finance Department in all such matters where the matter pertains to creation, upgradation, downgradation and conversion of posts not only in respect of financial issues but also other technical issues like qualifications. In the instant case, there is no prior approval obtained from the State Government as per the University Act, 2003 and Memo No.18/23-2012 UNP (2) dated 30.10.2013. In fact, the Vice Chancellor was not competent to have created a Committee to look into the issue of promotion channels as per Clause 13 (d) of the Statutes of the respondent-University. It is only the Executive Council that was empowered to do so and it had constituted its Committee to be headed by Dr. Raghuvendra Tanwar. The duly constituted Committee was in existence till 49th meeting of the Executive Council, which was convened on 06.07.2016 and the convenor submitted his resignation on 23.10.2016. The Executive Council thereafter did not constitute another Committee to review the issues relating to the non-teaching employees. The constitution of the Committee by the Vice Chancellor itself is *de hors* the Statutes and even though the Executive Council has accepted the recommendations, same are without approval of the State Government as envisaged under memo dated 30.10.2013.

9. In view of the aforesaid facts and circumstances, notification dated 06.07.2017 is quashed and the writ petition stands allowed.

(JAISHREE THAKUR)
JUDGE

March 23, 2023
Pankaj*

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