

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-8916-2013 (O&M)

Date of decision: 02.09.2023

Rajinder Kumar Chauhan

... Petitioner

VS.

Govt. of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Garima Modi, Ms. Hardeep Kaur, Mr. Rose Gupta,
Advocates for the petitioner

Mr. SS Mann, Addl. AG Haryana

Mr. Deepak Balyan, Advocate for
Mr. Vicky Chauhan, Advocate for respondents No.2 to 4

Mr. DR Bansal, Advocate for respondent No.5

Sandeep Moudgil, J.

(1). The petitioners have filed the present writ petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India with a prayer for issuance of a writ in the nature of *certiorari* quashing the orders dated 26.10.1982 (Annexure P2), 26.08.1987 (Annexure P4), 04.11.1987 (Annexure P5), 19.02.2001 (Annexure P14), 23.03.2001 (Annexure P19), 09.02.2006 (Annexure P15), 12.03.2007 (Annexure P16) and 13.04.2007 (Annexure P17) whereby respondent No.5 was posted as Public Relations Officer, Panipat with all benefits. He further seeks a direction to grant him all due benefits of promotions a Public Relations Officer from 12.02.1989 and Chief Public Relations Officer from 19.02.2001.

(2). Learned counsel for the petitioner contended that the order dated 26.10.1982 (Annexure P2) is merely a posting order which may not be manipulated/converted into promotion order of respondent No.5 at the later

stage for not having essential qualification on the date of his posting and in spite thereof, respondent No.5 was granted all due benefits without having requisite qualification from a recognized university inasmuch as improved qualification (Annexure P7) of respondent No.5 is from Bharatiya Vidya Bhawan Dayanand College of Communication and Management Chandigarh which is not from recognized university as per clarification dated 30.12.1983 (Annexure P9).

(3). It is submitted that post of respondent No.5 i.e. Manager/PR nomenclature was changed to that of DGM vide order dated 09.02.2006 (Annexure P15) which was further changed to Chief Communication Officer on 12.03.2007 (Annexure P16) and attached status of head of wing vide order dated 13.04.2007 (Annexure P17) only to conceal his identity under Public Relation Policy without any locus standi and has nothing to deal with the post and qualifications of CPRO under the policy dated 27.04.1989 (Annexure P8).

(4). Written statement has been filed on behalf of respondents No.2 to 5 wherein it has been averred that the service of the petitioner has never been satisfactory and has been charge-sheeted twice due to gross misconduct and communication. It is submitted that the petitioner was appointed as Film Projector Operator on 19.08.1982 whereas respondent was appointed as Publicity Supervisor in October, 1978 in erstwhile HSEB and as such, the respondent No.5 was drawing higher pay scale and that respondent No.5 was posted as Public Relations Officer in his own pay scale.

(5). It is further averred in the written statement that the government employees who have imposed their qualification from Bhartiya Vidhya

Bhawan Dayanad College of Communication and Management, Chandigarh which is a recognized institute from Govt. of India as well as from GJU, Hisar etc. cannot be debarred for promotion or recruitment and its certificate is valid for recruitment and promotion. Further, the instructions dated 30.12.1983 (Annexure P9) does not debar from the promotion and recruitment and that only the benefits of personal pay has been denied on account of their qualification so attained from such recognized institution instead of recognized university.

(6). Respondent No.5 has filed two written statements dated 15.02.2014 and 13.05.2015 wherein it has been averred that the writ petition suffers from delay and laches and that the writ petition deserves to be dismissed as the qualification of the petitioner is bogus. It is further submitted that the petitioner has made false averments regarding qualification of the respondent No.5 and as such the service of the respondent No.5 cannot be compared with the service of the petitioner.

(7). Heard learned counsel for the parties and gone through the record.

(8). The petitioner was denied all the promotions during service though according to his counsel, he was eligible and qualified but respondent No.5 who is not qualified has been promoted as Chief Communication Officer and the ground for denial of promotional benefit to the petitioner is that the qualification acquired from Bhartiya Vidhya Bhawan Dayanand College of Communication and Management, Chandigarh has not been recognized as is evident from letter dated 30.12.1983 (Annexure P9). The said letter mentions that personal pay shall be given to those employees who

improve their qualifications from a recognized university and since the petitioner has improved his qualification from an unrecognized university, he is not covered under govt.instructions.

(9). At this stage, it will be appetite to reproduce the following averments made by the respondents No.2 to 5 in their written statement:-

That the contents of the Para No. 11 of the writ petition are wrong and denied. It is submitted that respondent No.5 Sh. D.P. Dhull was in possession of requisite qualification for the appointment of Publicity Supervisor on 19.10.1978. Further, when respondent No. 5 was granted regular scale as PRO w.e.f. 04.11.1982 vide erstwhile HSEB office order No. 602 dated 04.11.1987 (Annexure-P-5) he was in possession of requisite qualification for the post of Public Relation Officer. It is further submitted that the Bhartiya Vidhya Bhawan Dayanand College of Communication and Management, Chandigarh is a recognized institution and its certificates are valid for recruitment & promotion. So far as the matter regarding letter dated 30.12.1983 of Government of Haryana (Annexure-P-9) is concerned, it is submitted that only those employees who improve their qualification from recognized university are eligible for personal pay. In other words, the employees who improve their qualification from a recognized University instead of recognized institution will be eligible for the benefit of personal pay only. Besides this, it is submitted that respondent No. 2 i.e. erstwhile Haryana State Electricity Board was fully competent for recruitment and promotions of its employees being an autonomous body and having its own recruitment system and its own recruitment and promotion rules & regulations, procedure and process.

(Emphasis applied)

(10). A perusal of the above would show that Bhartiya Vidhya Bhawan Dayanand College of Communication and Management, Chandigarh has been considered as a recognized institution and its certificates are valid for recruitment & promotion and that only those employees who improve their qualification from recognized university are eligible for personal pay. In other words, the employees who improve their qualification from a recognized University instead of recognized institution will be eligible for the benefit of personal pay only.

(11). In so far as the qualification of respondent No.5 is concerned, no order is required to be passed inasmuch as respondent No.5 - Sh. D.P. Dhull was found to be in possession of requisite qualification for the appointment of Publicity Supervisor on 19.10.1978 and at the time when respondent No. 5 was granted regular scale as PRO w.e.f. 04.11.1982 vide erstwhile HSEB office order No. 602 dated 04.11.1987 (Annexure-P-5), he was in possession of requisite qualification for the post of Public Relation Officer. Therefore, the prayer of the petitioner for setting aside the promotion of the respondent No.5 cannot be accepted and hence rejected.

(12). As regards the petitioner, in the present case, the promotion and other consequential benefits has been denied to the petitioner having been rendered as ineligible on account of not possessing certificate from a valid University and the petitioner having acquired his qualification from Bhartiya Vidhya Bhawan Dayanand College of Communication and Management, Chandigarh has been considered as a recognized institution and its certificates are valid for recruitment & promotion, there is no ground left for

the respondents to deny the petitioner all the consequential benefits/promotion.

(13). Accordingly, this writ petition is allowed in part and the order(s) denying promotion and other consequential benefits to the petitioner is/are set aside as the qualification of petitioner acquired from Bhartiya Vidhya Bhawan Dayanand College of Communication and Management, Chandigarh has been considered as a recognized institution and its certificates are valid for recruitment & promotion.

(14). Needless to say that the petitioner shall be granted all consequential benefits/promotions from due date along with consequential arrears. The petitioner shall also be entitled for interest @ 6% p.a. from the due date till its actual realization.

(15). Ordered accordingly.

(16). Pending applications, if any, also stand disposed of accordingly.

02.09.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No