

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

202

CWP-7262-2016

Date of decision: 11.05.2023

RANJIT SINGH

..Petitioner

Versus

STATE OF PUNJAB & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Gupta, Advocate
for the petitioner.

Mr. D.K. Singal, Addl. A.G., Punjab.

ANIL KSHETARPAL, J(Oral)

1. While praying for the issuance of a writ in the nature of certiorari to quash orders passed on 12.12.2014 and 15.12.2015, the petitioner prays for direction to the respondents to promote him to the post of Technical Assistant, which is a Class-III post.

2. In order to comprehend the controversy involved in the present writ petition, the relevant facts, in brief, are required to be noticed, which are as follows:-

The petitioner was born on 18.04.1980. He joined the Government Ayurvedic College, Patiala, as an Attendant (Class-IV) post. In January, 2004, his services as Attendant was regularized. Though, services of various other employees are regulated by the Punjab Ayurvedic Department (Class III-Technical) Service Rules, 1963, however, the post of Technical Assistant is governed by the administrative order passed on 23.02.1973. As per the aforesaid administrative order, for promotion to the post of Technical

Assistant, the candidate is required to fulfill the following eligibility criteria:-

“Technical Assistant (120-250):

- 1. Matric/Higher Secondary pass along with science*
- 2. Diploma course or one year experience certificate from a recognized institute*
- 3. Preference will be given to the persons having qualification of Up-Vaidya.”*

3. The petitioner completed his matriculation and also worked as an Attendant in the Department of Physiology in the Government Ayurvedic College, Patiala, between 27.11.2009 to 07.03.2011. On the basis of having passed the matriculation examination and experience, the petitioner was promoted to the post of Technical Assistant on 02.10.2014, however, the same has been withdrawn/recalled by order dated 12.12.2014 (Annexure P-11). He filed the writ petition, which was disposed of, however, a Letters Patent Bench directed the respondent to pass a fresh order. It is in consequence of the Court's decision, a fresh order was passed on 15.12.2015.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

5. The learned counsel representing the petitioner while highlighting the facts, which have already been noticed, submits that the petitioner has not been dealt fairly. He submits that though the petitioner was eligible and correctly promoted, however, the official respondents ordered his reversion without any basis.

6. On the other hand, the learned counsel representing the State of Punjab submits that the petitioner has produced the experience certificate

with respect to the period before he passed his matriculation examination. He further submits that the experience certificate is issued by the professor and the head of the department of Physiology and not by the Principal.

7. This Court has considered the submissions of learned counsel representing the parties. It is evident that the petitioner started working on a temporary basis in the year 1996 when he was 16 years and few months old. His services were regularized after a period of more than 7 years. In order to progress in life, he started working in the Department of Physiology. Simultaneously, he improved his academic credentials. Once he became eligible for promotion, the competent authority ordered his promotion on 02.10.2014. On a careful reading of the administrative order dated 23.02.1973, it is evident that there was no requirement that one year experience certificate must be signed by the Principal or the head of the institution. The petitioner was working at the same college. The Professor and head of the Department of Physiology certified that the petitioner has worked as an Attendant from 27.11.2009 to 07.03.2011 and he has the knowledge of working in the laboratory. Once there was no requirement of getting the aforesaid experience certificate counter-signed or signed by the Principal of the Government Ayurvedic College, Patiala, the stand of the respondent-State is not sustainable.

8. The next argument of the learned counsel representing the State of Punjab is with regard to the fact that the petitioner gained experience before completing his matriculation. Needless to observe that the administrative order passed on 23.02.1973 does not require or mandate that

the one year experience must be attained only after completing matriculation examination.

9. Moreover, when the matter was required to be reconsidered pursuant to the order passed by the High Court, the Principal vide communication dated 16.10.2015 while recommending the case of the petitioner, informed the Director that the petitioner fulfills the eligibility criteria, however, even in that case the impugned order was passed.

10. Thus, it is evident that the petitioner has not been dealt with fairly. He has been wrongly deprived of working on the promotional post of Technical Assistant during all this while. The petitioner still continues to work as a Class-IV employee.

11. Keeping in view the aforesaid facts, the writ petition is allowed. The orders dated 12.12.2014 and 15.12.2015 are set aside. The petitioner was correctly promoted on 02.10.2014. He will be deemed to have continued to work on the promotional post from 02.10.2014. As a consequence, the petitioner shall be entitled to all the benefits including counting of his seniority and any other benefits within a period of three months, from today, positively.

12. All the pending miscellaneous applications, if any, are also disposed of.

May 11th, 2023

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**(ANIL KSHETARPAL)
JUDGE**

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