

2023:PHHC:155632
CWP-8677-2016
Date of Decision: 06.12.2023

Anita Rani

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Harinder Sharma, Advocate for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this writ petition has challenged the action of the respondents in not granting promotions vide order dated 31.02.2015, stating that the petitioner had been earlier granted promotion on 02.04.2012, but she has forgone her promotion, due to which she was debarred for consideration for promotion for a period of two years.

2. The disbarment period would end on 31.08.2014 and, therefore, when the promotions were made on 31.02.2015, the petitioner ought to have been considered and granted promotion. Thereafter, she submitted a representation to the authorities and the respondents passed an order on 11.04.2016, stating that the petitioner could not be considered, as the case for promotion for the post of Head Masters was requisitioned from the department in respect of candidates who were eligible upto 14.05.2014, since the debarment period of the petitioner ended on 31.08.2014 and was in currency as on 14.05.2014, the petitioner could not have been considered for

promotion by the DPC. Although the order was passed on 31.02.2015 by the DPC, the same is with regard to the candidates who were eligible as on 14.05.2014.

3. Learned counsel submits that the action is unjustified if the order has been passed on 31.02.2015, as all those who were eligible as on the date of promotion, should be considered.

4. I have considered the submissions.

5. If a DPC meets on a particular date but the orders of promotion are passed on a subsequent date, the cutoff date has to be necessarily the date on which the promotion orders are passed. Two different cutoff dates, *prima facie*, cannot be affixed, one for treating the candidates who are eligible and the other for making promotions. This is so as there is no year-wise determination of posts nor the DPC examines the posts which fall vacant for consideration. A person is granted promotion and benefits of promotion only from the date when promotion orders are passed. Thus, if the DPC meets on an earlier date and promotion is to be given from a particular date, the eligibility of candidates has to be examined on the date when the promotion orders are issued.

6. In other words, the department cannot sit on recommendations of DPC for years together and not issued orders resultantly denying the candidate who had become entitled in the intervening period.

7. In the present case, this Court finds that the department requisitioned the details about the masters/mistresses who were eligible upto 14.05.2014, the DPC considered only those candidates and recommended their names but the department passed an order almost nine months later, during which time the petitioner became eligible on 31.08.2014 and taking a

stand relating to cutoff date fixed for determining eligibility, the petitioner

has been scored out from consideration. While a particular cutoff date is required to be always fixed for determining the persons who are eligible for consideration, the aforesaid method is found to deprive the persons who became eligible in the intervening period.

8. However, in the facts of the present case, this Court does not deem it appropriate to interfere with the orders passed on 31.02.2015, but since the petitioner came out of disbarment period of two years as on 31.08.2014, her candidature is required to be considered by holding a review DPC for posts which have fallen vacant after 31.08.2014. The respondents may conduct an exercise accordingly and consider the case of the petitioner for promotion. The order passed on 31.02.2015, is upheld. The exercise of conducting review DPC is to be done within two months and in the event of consideration, if the petitioner is found suitable for promotion, she may be released the consequential benefits accordingly.

9. With the aforesaid observations, the writ petition is disposed of

10. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

06.12.2023

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1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No