

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

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CWP-3980-2017 (O&M)

Date of Decision: 19.01.2023

SAT PARKASH & ORS.

... Petitioners

Versus

STATE OF HARYANA & ANR.

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jawahar Lal Goyal, Advocate
for the petitioners.

Ms. Tanushree Gupta, DAG Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioners seek issuance of a writ in the nature of Certiorari quashing the impugned order dated 11.01.2015 (Annexure P-3), vide which, though, petitioners No.1, 3 and 4 have been promoted against the posts of Demonstrator in Physical Education (D.P.E.) Master w.e.f. 23.07.2007 and 16.01.2010, yet they were held entitled only to the notional pay fixation and seniority and not the promotional and monetary benefits.

Learned counsel for the petitioners submits that the present petition was dismissed as withdrawn qua petitioner No.1, vide order dated 16.05.2022 passed by a Coordinate Bench of this Court. He further submits that petitioner No.4 has since passed away and thus, the present petition survives qua petitioners No.2 and 3 only, who are still in service, at this stage.

Learned counsel for the petitioners submits that petitioners were initially appointed as PTI on ad hoc basis in the School Education Department; that the services of the petitioners were regularized w.e.f. 01.10.2003; that petitioners No.1, 3 and 4 were promoted as Demonstrators in Physical Education (D.P.E.) Masters w.e.f. 23.07.2007 and 16.01.2010, vide impugned order dated 11.01.2015 and that petitioner No.2 was also promoted to the said post but his promotion order has not been annexed with this petition. He further submits that the petitioners were promoted with the following Clause:-

'7. Candidates are not entitled for any promotional benefits except notional pay fixation and seniority only'.

Learned counsel for the petitioners further submits that the juniors to the petitioners were promoted way back in the year 2007/2010; that the petitioners filed a representation dated 25.02.2014; that when no response was received thereto, the petitioners preferred CWP-6158-2014 before this Court, which was disposed of vide order dated 08.05.2014, directing the Director Elementary Education Haryana, to consider and decide the representation dated 25.02.2014 moved by the petitioners, within a period of three months and that, the petitioners, through their Advocate, issued a legal notice dated 10.06.2015 (Annexure P-4) to the Department concerned, but to no avail. He further submits that though, the petitioners had supplied all the relevant documents to the authority concerned, in time, yet they have been denied their rightful claim.

On the other hand, learned State counsel submits that the case of the petitioners was considered and it was found that they have concealed the factum of having acquired the requisite qualifications of Bachelor in Physical Education (B.P.Ed.) or Diploma in Physical Education (D.P.Ed.), as a regular course, during service and without availing extraordinary leave/permission for the same; that the petitioners have played fraud with the Department as well as the University concerned. However, after due consideration by the competent authority, the petitioners were held entitled only to step up of the scale of pay retrospectively, from the deemed date of their notional promotion, but not entitled to payment of arrears of the salary. She further submits that the petitioners were called upon to submit the relevant record of extraordinary leave taken by them while studying D.P.Ed. Course, but they failed to do so and thus, the present petition is liable to be dismissed.

I have heard the learned counsel for the parties.

As noticed above, the services of the petitioners were regularized w.e.f. 01.10.2003. The petitioners were promoted on 11.01.2015 w.e.f. 23.07.2007 and 16.01.2010, respectively.

As noticed above, the respondents have rightly drawn the conclusion that the petitioners have obtained the requisite qualification, while in service and that too without availing any extraordinary leave and/or permission for the same. Despite that, the case of the petitioners was duly considered by the competent authority and they were promoted, after giving them the due benefits, they are entitled to.

There is no counter to the said argument raised by the learned State counsel from the side of the learned counsel for the petitioners.

No other point has been urged.

In view of the above, I find no infirmity in the order impugned in this petition.

Dismissed.

19.01.2023

Aman Jain

Whether speaking/reasoned

Whether reportable

(HARNARESH SINGH GILL)

JUDGE

:

:

Yes/No

Yes/No