

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

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CWP-23215-2022 (O&M)

Date of Decision: 09.02.2023

NIRMAL DAHIYA

... Petitioner

Versus

STATE OF HARYANA AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ashish Kumar, Advocate for
Mr. Vijay Pal, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A. G. Haryana.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks issuance of a writ in the nature of Certiorari quashing the impugned promotion order dated 03.10.2022 (Annexure P-2), vide which respondents No.3 to 9 (juniors to the petitioner) have been promoted as Education Services-I Officers.

On 28.10.2022, learned State counsel submitted that the representation of the petitioner, raising the same grievance, was under consideration and had sought a week's time so that the concerned Department could analyse the claim of the petitioner.

Today, learned State counsel has placed on record the order dated 15.12.2022 passed by the Additional Chief Secretary, Government of Haryana, vide which the claim of the petitioner, as raised in the representation as well as in this petition, was rejected. The relevant extract of the order would read as under:-

'.....

Whereas, in compliance of the above said order, thje legal notice dated 05.12.2022 of the petitioner was considered and it is found that a committee of four members was constituted by the direction Secondary Education, Panchkula, vide order No.13/126-2021 HRME-I (3) dated 15.09.2021/20.09.2021. The petitioner was also accorded with opportunity to participate in the enquiry process. The said committee submitted its final report dated 17.12.2021, wherein the irregularities were found tyo be committed by Smt. Nirmal Dahiya, reason being that she extended the benefit of arrears of Rs.5,17,245/- of pay fixation to one Sh. Jai Bhagwan, Peon posted in the Office of BEO, Bhiwani w.e.f. 19.08.2014 on the basis of photocopy of order No/E-1/2019/6997-7052 dated 30.12.2019 though the above-said order was modified by passing order No.E-1/2019/7-56-7131 dated 31.12.20149 whereby benefit of notional pay fixation was only to be granted. Thus, due to her act of omission causing loss to the State Exchequer while disbursing arrears to Class-IV employees without seeking any clarification and approval from higher authorities.

Whereas, the competent authority granted approval to issue charge-sheet against the petitioner under rule 7 of Haryana Civil Services (Punishment & Appeal) Rules, 2016 prior to issuance of her promotion orders dated 03.10.2022/04.10.2022. Hence, she was rightly not promoted, as the disciplinary proceedings under Rule-7 were already

contemplated against her before the issuance of promotion orders. Further, the petitioner has now also been served with the charge-sheet dated 21.10.2022.

Keeping in view of the facts enunciated above and documents on record, the claim of the petitioner is not tenable, at this stage and the same is hereby rejected for the time being devoid of merits.'

I have heard the learned counsel for the parties.

As noticed above, vide order dated 15.12.2022 passed by the Additional Chief Secretary, the claim of the petitioner has been rejected.

In view of the said fact, the present petition is disposed of, with liberty to the petitioner to challenge the said order, if so advised.

09.02.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>