

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

CWP-9221-2017 (O & M)
Reserved On: 11.01.2023
Pronounced on: 18.01.2023

Sushma Rani

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jangjit Singh Dahiya, Advocate,
for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

Mr. Deepak Kundu, Advocate,
for respondent No.4-University.

Mr. Y.P.Malik, Advocate, for respondent No.6.

HARNARESH SINGH GILL, J.

The petitioner seeks issuance of a writ in the nature of Quo Warranto directing respondent No.6 to vacate the post of Lecturer in Library Science, BPS Mahila Polytechnic, Khanpur Kalan, and for issuance of a writ in the nature of Mandamus directing respondents No.1 to 5 to recover the entire public money illegally and fraudulently withdrawn by respondent No.6 against the post of Lecturer, Senior Lecturer and the Head of the Department by promoting himself without any approval from the Government and misusing his powers as officiating Principal and member Secretary of the Board of Governor.

It may be noticed that it is an admitted fact that the petitioner as also respondent No.6 (petitioner in CWP-797-2017), both have retired. The issue of seniority raised by respondent No.6 (petitioner in CWP-797-2017), has been given up by the learned Senior Counsel representing him therein and the issue of recovery sought to be made from him, has been adjudicated upon in CWP-797-2017, vide order of the even date.

Learned counsel for the petitioner could not satisfy this Court as to how the petition in the form of *quo warranto* is maintainable, particularly when respondent No.4-BPS, Mahila Vishwavidhyalaya, did not challenge any order appointing respondent No.6 or promoting him as a Senior Lecturer or the Head of the Department.

Be that as it may, this Court could have deliberated further upon this issue, but since both, the petitioner and respondent No.6, have already retired, the question of recovery sought to be effected from him being the only question left open for determination in CWP-797-2017, this Court does not find any ground to entertain the present petition filed by the petitioner.

The matter can be looked from another angle. In view of the detailed discussions made in CWP-797-2017, it is established on record that respondent No.6 had actually worked on the posts after his promotions to the Senior Lecturer and the Head of the Department. Once respondent No.6 had worked on the aforesaid posts and there was no challenge to the orders of his appointment or promotion, in the opinion of this Court, the

recovery sought to be made from respondent No.6 remained the only issue for determination in the said petition.

Learned counsel for the petitioner has vehemently argued that respondent No.6 was wrongly promoted and made senior to the petitioner and, therefore, the orders giving him promotions were bad in law.

The petitioner though claims to be contesting the common cause, yet it is beyond understanding as to what prevented the petitioner from challenging the said orders at an earlier point of time and it seems that when recovery was sought to be made from respondent No.6, the petitioner has filed the present petition. Therefore, the present writ petition seems to be actuated on the basis of recovery orders passed by the official respondents. It is settled law that in the service matters, the petition in the form of *pro bono publico* is not maintainable. Even if it is considered that the petitioner can file the present petition, then also in the absence of any challenge to the orders passed by the official respondents, the present petition cannot be entertained at this stage, when much more water has flown down the bridge.

For the reasons recorded above coupled with the reasons recorded in order of even date passed in CWP-797-2017, the present petition is dismissed.

18.01.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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