

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

I. COCP-4294-2019 (O&M)
Reserved on : April 21, 2023
Date of Pronouncement : April 24, 2023

Jagjit Singh and othersPetitioners
Vs.
Krishan Kumar and another ...Respondents

II. COCP-79-2020

Kashmir Singh and othersPetitioners
Vs.
Krishan Kumar and another ...Respondents

III. COCP-2330-2020

Krishan Kumar and othersPetitioners
Vs.
Krishan Kumar and another ...Respondents

IV. COCP-1310-2021

Ram Sarup Rikhi and and othersPetitioners
Vs.
Krishan Kumar and another ...Respondents

V. **COCp-1311-2021**

Jagmit Singh and othersPetitioners

Vs.

Krishan Kumar and another ...Respondents

VI. **COCp-1312-2021**

Bakhshish Singh and othersPetitioners

Vs.

Krishan Kumar and others ...Respondents

VII. **COCp-2207-2021**

Gurbax Singh and othersPetitioners

Vs.

Krishan Kumar and another ...Respondents

VIII. **COCp-985-2021**

Charanjit Singh and othersPetitioners

Vs.

Krishan Kumar and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Harinder Sharma, Advocate
Mr. Sunny Singla, Advocate
Mr. Harshpreet Singh, Advocate for
Mr. Amrik Singh, Advocate
Mr. Vikas Chatrath, Advocate
for the petitioner(s)

Mr. Ayush Sarna, AAG, Punjab.

ARVIND SINGH SANGWAN, J.

The petitioners allege the violation of the order dated 25.9.2018 passed in LPA 37 of 2017.

Brief facts of the case are that the petitioners have filed CWP-17358-2015 challenging the order dated 20.10.2014 vide which, though, the petitioners were allowed higher pay on account of their performing the duty on the higher post of school Principals/Headmasters in officiating capacity yet were denied the pension and other retiral benefits qua the said higher posts.

Vide judgment and order dated 9.9.2016, the writ petition was allowed and the order dated 20.10.2014 was set aside and directions were issued to re-fix the pension and retiral benefits of the petitioners on the basis of last pay drawn by them in the officiating capacity as Principals/Headmasters and to pay arrears interest @ 9% per annum.

Thereafter, the State of Punjab filed LPA 37-2017 in which the following directions were issued :-

“We have heard learned counsel for the parties at a considerable length and are of the view that the appellants cannot take undue advantage of their own inaction or wrongs. Seniority is a condition of service. It has to be determined at the earliest in accordance with the Rules governing conditions of service. If any delay occurs because of multiple Court proceedings,

the authorities ought to have evolved some mechanism to grant regular promotions to the senior most Lecturer/Master/Mistresses, for promotion is also a legitimate expectation in service career. The controversy nevertheless does not require further deliberations, for necessary directions to consider and promote the Lecturer/Master/Mistresses on higher posts as per their seniority and other eligibility conditions have already been issued by this Court in the above cited order dated 23.5.2017. Let those directions be complied with within the time frame given in the cited order. The respondents in the lead case or the writ petitioners in the connected petitions shall also be considered for regular promotion **"as per their seniority and eligibility conditions from the due date and in accordance with the Rules"**, which were in vogue at the time of occurrence of vacancies. While the promotions shall be granted retrospectively but on notional basis only and they shall be entitled to fixation of their pension and other retiral benefits as per the pay deemed to have been drawn by them on the higher promotional posts. They shall also be entitled to arrears of pension and other retiral benefits along with interest @ 7% per annum. The needful shall be done within a period of six months. However, if the respondents in the lead case and the writ petitioners in the connected cases have not been granted emoluments for the period they officiated/worked on the higher posts, let such claim be also considered within a period of four months."

The petitioners allege that the respondents have not complied with the aforesaid directions passed by the LPA Bench.

Reply by way of affidavit of the Secretary to Government of Punjab, Department of School Education is filed.

It is stated that in compliance of the directions passed by this Court, the case of the petitioners was examined on the basis of the record provided by the concerned District Education Officers and instructions of the State government. The petitioners were working as Lecturers/Masters in Education Department and were senior-most in their respective schools, but were not senior as per the seniority-list maintained by the Department.

As a stop-gap arrangement, the petitioners were only given the power of Drawing and Disbursing Officers so as salary of the employees of the concerned school is made in time, as a temporary arrangement, because at the relevant time, the posts of Headmasters/Principals were lying vacant. The petitioners were given the salary of the post during the period they were officiating on the higher post of Headmasters/Principals. However, on withdrawal of their officiating post, the salary was revised as per their substantive post, i.e. the post of Lecturers/Masters as they do not fall in the zone of promotion as per their State level seniority-list. It was found that the petitioner has no right to claim the pension merely because they were holding the higher post at the time of retirement and, therefore, by

passing a speaking order Annexure R-1, the claim of the petitioners was rejected.

It is clear from the Division Bench judgment passed by the LPA Bench that the case of the petitioners is to be considered for regular promotion as **“as per their seniority and eligibility condition from the due date in accordance with Rules”**

Admittedly, it is not the case of the petitioners that they were given the charge of the officiating Headmasters/Principals as per their seniority, rather they were given the charge, being senior-most teacher in their respective schools to work as Drawing and Disbursing Officers to pay the salary of the other staff.

Therefore, no willful disobedience is made out.

Dismissed.

April 24, 2023
satish

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO