



(128)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-241-2024 (O&M)
Date of decision:- 13.05.2024

Kuldeep Kaur
Versus
State of Punjab and others
...Appellant(s)
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA, ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Mohit Garg, Advocate,
for the appellant.
Mr. Saurav Khurana, Additional Advocate General, Punjab.
* * * *

G.S. SANDHAWALIA, A.C.J. (ORAL)

1. The present appeal arises out of the order dated 21.12.2023 passed by the learned Single Judge, whereby CWP-28857-2023 filed by the appellant-writ petitioner was dismissed.
2. The reasoning which weighed with the learned Single Judge was that there is no right of promotion and there is only a right of consideration and the writ petitioner having superannuated on 31.12.2022 and the orders of promotion being passed subsequently, no claim for promotion could be considered. The writ petition was accordingly dismissed. The learned Single Judge noticed that the Departmental Promotion Committee (DPC) is a recommendatory body and it is not necessary that the State Government would immediately take action on its recommendations and there could be various reasons for the wait before the actual promotional order is passed. Such withholding of the promotions in spite of recommendations could be for ascertaining criminal proceedings or departmental proceedings which would finally weigh with the authorities as such.



3. Vide order dated 25.01.2024, the Coordinate Bench had directed the State to find out whether the recommendation was made for promotion on 27.12.2022 by the DPC and when was the promotion made to the persons who were junior to appellant-writ petitioner. The affidavit of Dr. Avnish Kumar, Director, Research and Medical Education, Punjab, has been filed. A perusal of the same would go on to show that it has been averred that the file containing the names of 55 Staff Nurses for promotion was submitted by the Additional Secretary on 05.01.2023 to the Secretary. The file was then sent for approval on the same date to the Minister and the file was approved on 06.01.2023 and the orders of promotion were issued on 13.01.2023. It has also been mentioned in the affidavit that the appellant-writ petitioner and another employee, namely, Kawaljit Kaur were not promoted since they had retired on 31.12.2022. The relevant rules, namely, the Punjab Health and Family Welfare Technical Group-B Service Rules, 2018 were relied upon that no person shall have any right to claim promotion on the basis of seniority alone and the promotion was to be made on the basis of seniority-cum-merit. The name of the appellant-writ petitioner was in the list of the employees who were likely to be promoted as Sister Tutor, but by the time finalization had been done, the appellant-writ petitioner had already retired.

4. Keeping in view the above, we are of the considered opinion that the learned Single Judge is well justified in declining the relief which was claimed since the writ of mandamus as such had been sought to promote the writ petitioner from the date when the vacancy was available and it was alleged that the same could not be done due to lethargy of the department in not conducting the DPC. Thus, in the absence of any specific pleadings that there was any malafides as such, the omission to promote as such despite the availability of post does not call for any interference by invocation of the



extra-ordinary jurisdiction under Article 226 of the Constitution of India keeping in view the settled principle of law that there is only a right of consideration and no vested right for promotion especially keeping in view the Rules as such which have been noticed above.

5. In such circumstances, we do not find any error in the order passed by the learned Single Judge.
6. The appeal being meritless, accordingly, stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

13.05.2024
Amodh Sharma

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