



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CWP-4015-2019

Date of Decision:12.09.2024

KANTA GOYAL

...Petitioner(s)

Versus

THE GOVERNING BODY, VAISH EDUCATION SOCIETY AND
OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Raman Mohinder Sharma, Advocate
for the petitioner.Mr. Amit Rao, Advocate for Mr. Anurag Goyal, Advocate
for respondents No.1 to 3.

Mr. Harish Rathi, Sr. DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the judgment passed by the Educational Tribunal, dated 22.10.2018, Annexure P-10, as also the order dated 16.04.2018, Annexure P-5, whereby the petitioner's representation/objection against the seniority list, dated 04.03.2017, has been rejected.

2. Briefly, as per facts apparent on record, the petitioner was initially appointed in the third respondent Institute by the second respondent/Board of Management as Lecturer in Library Science on consolidated salary of ₹1,000 per month on 21.08.1986. She fulfilled the laid down qualifications for the post at that time. Later, the Department of Library Science, wherein the petitioner was appointed, was brought under grant-in-aid Scheme of the State Government with effect from 01.04.1990. On acquiring



requisite qualifications for the sanctioned post, she was regularised in service and granted regular scale of pay as Lecturer, i.e., ₹2200-4000 with effect from 05.03.1994. She was also given the benefits of the second and third Assured Career Progression (ACP) scales vide letter dated 05.05.2017, Annexure P-3. The Department circulated a composite seniority list of Lecturers/Senior Lecturers and Head of the Department for grant of salary in Pay Band-IV to fifteen per cent of Lecturers in the Institute as per seniority list dated 04.03.2017, in terms of Government notification. The petitioner objected to the same by submitting a representation, dated 17.03.2017, Annexure P-4, contending that her service from the date of initial appointment should be counted for the purpose of seniority, and the Pay Band should be given to her on that basis. The representation was finally rejected vide impugned speaking order dated 16.04.2018. She filed appeal against this rejection before the Educational Tribunal which was dismissed on grounds of delay and laches vide impugned judgment dated 22.10.2018.

3. Learned counsel for the petitioner contends that the petitioner was fully qualified as per the requisite qualifications at the time of initial appointment as Lecturer in the Institute, and she could not have been denied seniority from that day for want of qualifications which were subsequently notified. Alternatively, she was entitled to be considered in regular service from the date of the Department was taken under grant-in-aid Scheme of the State Government. He further contends that as per the earlier seniority lists issued by the Institute as on 01.04.2004 and 01.08.2010, Annexures P-11 and P-12, respectively, the petitioner was assigned seniority position tentatively in view of her pending writ petition, CWP-2602-1997 titled *Kanta Goyal v. State*



which was finally decided by this Court, vide order dated 17.10.2018. Therefore, she could not have agitated her rights against the seniority position earlier, and the appeal before the Tribunal was not delayed in any manner.

4. Learned counsel for the Management, on the contrary, contends that the Tribunal has rightly declined the petitioner's prayer on the ground of delay and laches as she did not challenge the earlier seniority lists of Group A and B officials in the Institute as on 01.04.2004 and 01.08.2010, respectively. In both the lists, petitioner's seniority was determined on the basis of her regular appointment after acquiring the requisite qualifications for the post with effect from 05.03.1994. Therefore, at this stage, she is not entitled to challenge the subsequent seniority list of officials notified on 04.03.2017. He further contends that the petitioner has already retired from service on 28.02.2022.

5. Heard.

6. There is no denying the fact that the Department of Library Science in the Institute, where the petitioner was appointed as Lecturer initially on consolidated salary with effect from 21.08.1986, was brought under the grant-in-aid Scheme of the State Government with effect from 01.04.1990. Only after acquiring the qualifications prescribed for the sanctioned post, she was given the regular scale of pay with effect from 05.03.1994. The earlier seniority lists notified by the Institute on 01.04.2004 and 01.08.2010, were not objected to by the petitioner. And it remains undisputed that she was assigned seniority therein on basis of regular appointment with effect from 05.03.1994. First time she raised objection regarding the seniority position was when the third seniority list of officials

was notified by the Institute on 04.03.2017. The contention of learned counsel



for the petitioner that only tentative seniority position was assigned to the petitioner in the first two seniority lists, and final seniority was to be determined after decision of her case, CWP-2602-1997, is without merit. A perusal of final order passed in the case, dated 17.10.2018, establishes that it did not concern the petitioner's seniority. Instead, the issue decided therein related to recovery of excess amount of salary paid to her beyond entitlement. The order reads as under:

The petitioner is a Lecturer in a private College, which was brought under grant-in-aid for the first time on 01.04.1990 by the State Government. The petitioner acquired her minimum qualification in September, 1993 on acquiring Masters Degree in Library Science. An audit report made for the year 1992-93 communicated to the respondent Institution for recovery of specified amount from the salary of the petitioner alleged to have been paid in excess of entitlement. An explanation was sought from the petitioner by the Principal in view of audit report vide letter dated 02.05.1996. Reply was submitted. The petitioner said she had not practiced any deceit, misrepresentation or hidden facts and the excess salaries were given to her by the Institution from grant-in-aid on their own volition without her realising as much. The order deducting Rs.650/- per month from the salary of the petitioner for the relevant period was made on 05.02.1997. This petition was filed immediately thereafter and was admitted for regular hearing on 20.11.1997 and the recovery was stayed by the Division Bench. The petitioner is still in service. Since the



petitioner has discharged duties for the said period, she is not disentitled to the salary.

Accordingly, while allowing the petition, the interim order staying the recovery is made absolute.

7. It is, therefore, apparent that pendency of earlier petition, CWP-2602-1997, had no bearing to the petitioner's seniority position, nor could it be altered after the decision. Therefore, no exception can be taken to the impugned judgment of the Tribunal dismissing the petitioner's appeal on the ground of delay and laches. The relevant paragraph of the judgment reads as under:

20. Next, the claim of the appellant is also barred by the law of limitation. In the case in hand, the first seniority list was circulated in the year 2004 to which the appellant never objected to and never filed any objection. In this context, I am fully fortified by the views expressed by the Hon'ble Apex Court in P.S.Sadasivaswamy Versus State of Tamil Nadu, AIR, 1974-2271, wherein it has been categorically held that where a Government servant slept over the promotions of his juniors over his head for fourteen years and then approached the High Court with writ petition challenging the relaxation of relevant rules in favour of the juniors, the writ petition is liable to be dismissed in limine. Such an aggrieved person should approach the Court at least within six months or at the most a year of promotion of his juniors. Similarly views were expressed by Hon'ble Kerala High Court in Against the Order/Judgement in... Versus S.Aji on 9 December, 2010.

8. In the view of the discussion, there is no merit in the petition and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

12.09.2024
Ad

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