



CWP-1197-2001 (O&M)

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

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CWP-1197-2001 (O&M)
Date of Decision: 15.10.2024

Darshna Aggarwal

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Daman Dhir, Advocate for the petitioner

Mr. Krishan K. Chahal, Addl. AG, Haryana

Mr. G.P.S. Bal, Advocate with
Ms. Anmol Thakur, Advocate for respondent no.2

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the second respondent/the Board of School Education, Haryana, to treat the petitioner as having been promoted to the post of Assistant Secretary with effect from the date her juniors/ third to ninth respondents were so promoted; and issue a writ of *certiorari* quashing the wrong fixation of seniority of Assistant Secretaries as on 01.05.1998, vide memorandum dated 02.06.1998, Annexure P-12.

2. Facts of the case in brief are, the petitioner was initially appointed as Clerk in the Panjab University (hereinafter referred to as 'the University') on 17.09.1966. Due to creation of the respondent Board, services of certain



employees working in the University were sought, and the petitioner's services were thus allocated to the Board vide letter dated 13.11.1969, Annexure P-2. The letter stipulated that her conditions of service will remain the same as applicable to her in the University at that time. The petitioner accordingly joined the Board as Clerk on 17.11.1969. She was later promoted as Assistant with effect from 26.09.1978, and as Superintendent with effect from 10.08.1989.

2.1. Earlier the Board followed the criteria of seniority-cum-merit with experience on the lower post, for promotion to the posts of Assistant, Superintendent, Assistant Secretary and Deputy Secretary. It was changed to provide for qualification of graduation with experience as Superintendent, for promotion to the post of Assistant Secretary by framing draft Regulations under Section 19(2)(d) of the Haryana Board of School Education Act, 1969 (hereinafter referred to as 'the Act').

2.2. Later, in view of representations received from the staff, the Board in its meeting held on 11.11.1997 took a decision vide Annexure P-9 to do away with the condition of graduation with five years' experience as Superintendent, for promotion to the post of Assistant Secretary; and also, to make promotions of the employees who had gone to the Court in case they withdrew the petitions filed by them for the purpose. In terms thereof, the petitioner withdrew her writ petition, and was promoted to the post of Assistant Secretary with effect from 24.02.1998, vide impugned memorandum dated 02.06.1998. In these circumstances, after being promoted, the petitioner has again approached this Court by filing the instant petition.

3. Learned counsel for the petitioner contends that she was wrongly denied promotion on the basis of draft Regulations framed by the Board.



Section 19(1) of the Act empowers the Board to make Regulations for carrying out provisions of the Act only with previous sanction of the State Government. Since no such sanction was given by the government, the Regulations could not have been given effect to by the Board, nor could the petitioner have been denied promotion on that basis.

4. Learned counsel for the Board, on the contrary, contends that the Board was competent to frame the Regulations, which have not even been challenged by the petitioner. Therefore, the action taken on that basis cannot be questioned. Also, she is not entitled to file the instant writ petition after taking benefit of promotion as Assistant Secretary in terms of decision taken by the Board in its meeting on 11.11.1997. He further contends that the Board had promoted the employees in accordance with Rules and as per the Regulations framed for the purpose. The petitioner was initially ignored for promotion on 17.10.1995 as she did not possess the requisite qualification of graduation, which was mandatory as per the Regulations.

5. Heard.

6. There is no dispute that the petitioner joined the Board as Clerk and possessed the qualification of Matriculation only. She had earlier approached this Court by filing a writ petition claiming promotion as Assistant Secretary. The petition was withdrawn by her after the Board, vide its decision dated 11.11.1997, decided to give relaxation in the educational qualification for promotion to the post of Assistant Secretary, and she got promotion in terms thereof. After having been so promoted as Assistant Secretary on 24.02.1998, she has filed the instant petition claiming promotion from an anterior date which cannot be permitted. She is estopped from raising such a claim after



dated 11.11.1997. Besides, validity of the draft Regulations framed by the Board under Section 19(2)(d) of the Act prescribing graduation as an essential qualification for promotion to the post of Assistant Secretary, based upon which she was denied promotion earlier, is not under challenge.

7. In view thereof, there is no merit in the petition and it stands dismissed.
8. Pending application(s), if any, also stand(s) disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

15.10.2024
Payal

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