



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

CWP-3318-1997

Date of Decision: 07.05.2024

SANJIV BANSAL

...Petitioner

Vs.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Ashwani Talwar, Advocate for the petitioner.

Mr. Rohit Arya, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed *inter alia* seeking a writ of *certiorari* setting aside the order dated 03.12.1993, Annexure P-10, whereby the petitioner's promotion from Demonstrator to Lecturer has been approved from 27.11.1991; and a direction has been sought to treat him as Lecturer from the date of his promotion, i.e., 05.04.1991.

2. The petition has been filed with the averment that the petitioner joined the Vaish Technical Institution, Rohtak, (for short 'the Institute'), as Demonstrator in the Civil Engineering Department in 1987. Later, he qualified the Associate Member of the Institution of Engineers (AMIE) examination in March 1991 and became eligible to be appointed as Lecturer. Considering his qualification, experience and service record, he was promoted as Lecturer in Civil Engineering Department vide letter dated 05.04.1991, Annexure P-7, subject to approval of the second respondent/Director Technical Education and the Board of Governors of the Institute. The petitioner accordingly joined as Lecturer, and later his case was



submitted to the second respondent for approval by granting relaxation in Rules under Rule 17 of the Haryana Technical Education Department (Group-B) Service Rules, 1986 (for short 'the service Rules'). Considering the case, the second respondent accorded in principle permission to promote the petitioner from Demonstrator to Lecturer by relaxing the provisions contained in Service Rules, vide letter dated 27.11.1991, Annexure P-9. Pursuant thereto, the Board of Governors approved the petitioner's promotion as Lecturer with effect from 27.11.1991, and the impugned order dated 03.12.1993, Annexure P-10, was passed in terms thereof, giving promotion to the petitioner with effect from 27.11.1991, instead of 05.04.1991.

3. Learned counsel for the petitioner has contended that the impugned order is not sustainable since the petitioner already stood promoted with effect from 05.04.1991, considering his qualifications as well as service record. There is no dispute that he fulfilled the requisite qualification of Lecturer in Engineering, since his AMIE examination is equivalent to B.Tech degree. Besides, once the promotion was approved by the second respondent, there was no occasion for the Board of Governors to pass the impugned order changing the date of promotion to 27.11.1991.

4. Learned State counsel on the contrary contends that the promotion has rightly been treated from the date it was approved by the Government in relaxation of Rules.

5. Learned counsel for the parties have been heard.

6. The petitioner, who was working as Demonstrator in the Institute, was promoted as Lecturer vide letter dated 05.04.1991, and joined as such. He fulfilled the requisite qualifications for the post in accordance with the Rules and had satisfactory service record as well. Since there was no provisions in the Rules for



promotion to the post of Lecturer, relaxation for the purpose was sought from the second respondent, which was duly accorded vide letter dated 27.11.1991. It is apparent from a perusal of this letter that in principle approval to promote the petitioner from the post of Demonstrator to Lecturer was given by relaxing the Rules. This essentially means, the promotion actually made, vide letter dated 05.04.1991, stood ratified by the second respondent by giving post-facto approval that was sought by the Institute. Accordingly, there was no rationale in issuing the impugned office order, dated 03.12.1993, approving the petitioner's promotion as Lecturer from 27.11.1991, i.e., the date of in principle approval by the second respondent, and he is to be treated as Lecturer with effect from 05.04.1991.

8. For the reasons recorded above, the writ petition is allowed. The impugned order, dated 03.12.1993, is set aside holding that the petitioner stands promoted as Lecturer vide letter dated 05.04.1991, and is entitled to all consequential benefits on that basis.

(TRIBHUVAN DAHIYA)
JUDGE

07.05.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No