

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.105

CWP No.5593 of 1997

Date of Decision: 17.12.2024

Daya Kishan Sharma

.... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Mani Ram Verma, Advocate for the petitioner.

Mr. Ravinder Singh Budhwar, Addl. A.G. Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing the promotion order dated 02.01.1996, Annexure P-3, *qua* the fourth respondent; and a writ of *mandamus* directing the respondent Department to promote the petitioner to the post of Hindi Lecturer from the date his junior was promoted, with all consequential benefits.

2. As per facts apparent on record, the petitioner was appointed as Hindi Teacher (C&V) on *ad hoc* basis in the Department on 20.01.1970; the fourth respondent was so appointed on 25.03.1971. It is also averred that both of them were later appointed as Hindi Teacher (C&V) on regular basis pursuant to their regular selection by the Subordinate Service Selection Board, Haryana. As per merit determined by the Board, the petitioner was ranked senior as compared to the fourth respondent. It was so reflected in the seniority list of C&V Teachers (Male) State Cadre as on 15.09.1973, Annexure P-1, and also in the subsequent seniority list as on 01.01.1984, Annexure P-2. Again in the seniority list notified in 1991, being senior the petitioner's name figured at serial no.188, and that of the fourth respondent

at 197. It is pertinent to note that pursuant to regular selection of the



petitioner as well as that of the fourth respondent as C&V Teachers, both joined service on different dates; the petitioner on 21.07.1973, and the fourth respondent on 26.09.1972. Seniority of teachers selected through the Board was required to be determined as per their merit positions, and it was so reflected in the seniority lists aforementioned. However, despite being senior, the petitioner was ignored for promotion to the post of Lecturer in Hindi (School Cadre Men Branch), though the fourth respondent was so promoted vide impugned order dated 02.01.1996. The petitioner submitted representations against it, and served a legal notice dated 10.01.1996, Annexure P-4, as well. No response was received from the Department, and he had to approach this Court by filing the instant petition.

3. In this factual background, learned counsel for the petitioner has contended that the petitioner is entitled to be promoted to the post of Lecturer in Hindi from the date his junior/fourth respondent has been promoted. This is particularly so because there is no specific denial to the averments in the petition regarding the seniority positions assigned to the petitioner as well as the fourth respondent in the seniority lists issued by the Department depicting positions as on 15.09.1973, 01.01.1984 and in 1991.

4. *Per contra*, learned State counsel by relying upon latest affidavit, dated 10.12.2024, filed on behalf of respondents no.1 to 3 contended that the petitioner was appointed as regular C&V Teacher in the Department on 21.07.1973, and the fourth respondent on 26.09.1972. Later, the petitioner was promoted as Post Graduate Teacher (PGT) Hindi from 17.03.1998, and the fourth respondent from 02.01.1996. Both of them were subsequently promoted as Headmasters with effect from 24.04.2004. They have now retired from service also; the petitioner on 30.04.2010, and the

fourth respondent on 31.03.2006. He further contends, the Government of



Haryana notified the Haryana State Education School Cadre Service Rules, 1998, for Group-B and C employees/teachers. Under these Rules, a C&V Teacher could either be promoted as Headmaster or as PGT/Lecturer. The relevant Rules with regard to essential requirements for promotion to the posts of Headmaster and PGT read as under:

Appointment of Headmaster by promotion:

- i. Eight years experience as Headmaster of Middle School or Master; or
- ii. B.T./B.Ed. and eight years experience as Sanskrit Teacher/Hindi Teacher or Punjabi Teacher.

Appointment of PGT by promotion:

- i. M.A. Hindi with at least 50% marks from recognised university;
- ii. 2 years teaching experience as Master/Classical and Vernacular Teacher.

4.1. He further contended that Hindi Teachers appointed up to August 1972 were promoted to the post of Headmaster, High School. It was thereafter decided to seek fresh cases for promotion from amongst Hindi Teachers appointed up to 31.12.1973. Accordingly, the petitioner's case was also received for promotion though he had already been promoted as Lecturer/PGT by that time, which was a separate cadre. And there was no provision for promotion to the post of Headmaster directly from that of Lecturer/PGT. Therefore, the petitioner was promoted as Headmaster by considering him in his parent cadre of C&V Teacher. By joining as Headmaster, he willingly gave up the claim for ante-dated promotion in a separate cadre of PGT/Lecturer.

5. Heard.

6. The petitioner claims to have joined as regular Hindi Teacher (C&V) on 21.07.1973. Although the fourth respondent joined service as such



prior thereto on 26.09.1972, he was petitioner’s junior as per merit determined by the Board at the time of selection. This was so reflected in the seniority lists notified by the Department giving seniority positions as on 15.09.1973, 01.01.1984 and in 1991. The dates of joining on regular post have not been disputed by the respondents. They have, however, contended that after being promoted as PGTs both, the petitioner as well as the fourth respondent, were promoted as Headmasters with effect from 24.04.2004 by considering their eight years’ experience as Master in terms of the Rules, because there was no provision thereunder for promotion as Headmaster from the post of PGT. It is not the petitioner’s case either that the Rules provided for a channel of promotion to the post of Headmaster from that of PGT/Lecturer; nor has his promotion as Headmaster, along that of the fourth respondent, been disputed. Resultantly, even if he is to be considered senior based upon the seniority lists notified by the Department, as aforementioned, his claim for promotion as Lecturer/PGT with effect from the date fourth respondent had been so promoted, cannot be granted because that would amount to undoing his promotion as Headmaster, that too at the stage when he has already superannuated from service. Besides, the issue of undoing the promotion is not under consideration, nor has it been the petitioner’s case that he is willing to give up the same.

7. In view thereof, there is no merit in the petition, and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

17.12.2024
Maninder