

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-859-2024 (O&M)
Date of decision:- 03.04.2024

State of Punjab and others
...Appellant(s)

Versus

Ranjit Singh
...Respondent(s)

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

Present: Mr. Saurav Khurana, Additional Advocate General, Punjab,
 for the appellants.

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

1. The consideration in the present appeal, which is patently time barred by 280 days, is to the order dated 11.05.2023 passed by the learned Single Judge in CWP-7262-2016 titled ***Ranjit Singh Vs State of Punjab and others.***
2. The learned Single Judge allowed the writ petition and set aside the orders dated 12.12.2014 and 15.12.2015 while coming to the conclusion that the writ petitioner was correctly promoted on 02.10.2014 as Technical Assistant, a class III post. The consequential benefits including counting of seniority and other benefits were also granted in favour of the employee.
3. Mr. Khurana, learned State counsel, argued on merits to the extent that the experience as such which had been obtained from 27.11.2009 to 07.03.2011 as an Attendant was prior to the matric qualification certificate issued on 14.06.2011 (Annexure P-4). In such circumstances, it is submitted that not having the requisite qualifications, the learned Single Judge erred in allowing the writ petition. We have considered the said submission. It is

apparent that the promotion to the post of Technical Assistant was not governed by any statutory rules as such and it was only by an administrative order dated 23.02.1973 (Annexure P-2) that the employee was liable to be considered for promotion. The services of the other employees, though, are regulated by the Punjab Ayurvedic Department (Class III – Technical) Service Rules, 1963, as recorded by the learned Single Judge. The argument, thus, raised by the learned State counsel, though attractive at first blush, is liable to be rejected solely on the ground that that was not the reason which prevailed with the authorities as such to withdraw the initial promotion order.

4. The writ petitioner belongs to the scheduled caste category and was born on 18.04.1980 and he joined as an Attendant, a class IV post, in November, 1996 and was regularized in January, 2004. He was considered for promotion and granted the benefit on 02.10.2014 and the same had been recalled on 12.12.2014 (Annexure P-11). Feeling aggrieved, he filed CWP-26209-2014 before this Court which came to be dismissed on 22.12.2014. Thereafter, he preferred LPA-133-2015 which was disposed of on 03.09.2015 by a Coordinate Bench with a direction to the respondent-authorities to consider his claim alongwith other persons. It is in such circumstances, the impugned order dated 15.12.2015 (Annexure P-15) was passed by the Director, Research and Medical Education, Punjab which was subject matter of challenge before the learned Single Judge.

5. The reasoning, as such, which weighed with the Director, Research and Medical Education, Punjab was that the writ petitioner did not have the following educational qualification:-

“1. Matriculation/Higher Secondary with science subject.

2. Diploma course or experience of one year of any recognized institute.

3. Preference to candidates having qualification of Upvaid.”

6. The following eligibility as per the administrative order dated 23.02.1973 was the requirement:-

“1. Matric/Higher Secondary pass along with science.

2. Diploma course or one year experience certificate from a recognized institute.

3. Preference will be given to the persons having qualification of Up-Vaidya.”

7. It is not the case of the appellants as such that the writ petitioner did not have the matric or pass the higher secondary. Rather all along, the case of the appellants has been that the experience certificate was not issued by the Head of the Department and that is what has prevailed with the learned Single Judge. Keeping in view the fact that it is only an administrative order as such on the basis of which the promotion had to be considered, we are of the considered view that the learned Single Judge has balanced the equity of a class IV employee while granting him the benefit by exercising the extraordinary jurisdiction and allowing the writ petition. The writ petitioner was only sixteen years and few months when he joined the Government Ayurvedic College, Patiala as an Attendant in 1996 and is a scheduled caste candidate and was granted the benefit of promotion way-back in 2014. Thus, depriving him as such of the promotional post of Technical Assistant strictly on the terms that his experience was prior to his passing the matric as such would amount to great hardship for him. In such circumstances, we are of the considered opinion that the judgement of the learned Single Judge does not suffer from any infirmity. The strict rules as such of interpretation would apply only if there was statutory rules in place regarding the promotion of a Technical Assistant. Therefore, we are of the considered opinion that keeping in view the

discretionary exercise of power, while invoking the writ jurisdiction, the learned Single Judge has reached out to grant justice to a class IV employee. We do not find any ground to interfere keeping in view that the appeal is also patently time barred and no sufficient cause has been shown to condone the delay which has occurred while processing the filing of the appeal.

8. The appeal, accordingly, stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

03.04.2024
Amodh Sharma

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