

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

276

CWP-13463-2020 (O&M)

Date of Decision:02.04.2024

Amandeep Kaur

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. R.S. Kalra, Advocate for the petitioner.

Mr. Arun Gupta, DAG, Punjab

AMAN CHAUDHARY, J. (Oral)

1. The prayer made in the present petition is for directing the respondents to consider the case of petitioner for promotion as well as for regularisation w.e.f. 06.04.2014, the date when similarly situated persons have been granted the same, along with all consequential benefits including seniority, arrears of pay etc. with interest @ 18% per annum.

2. Learned counsel would submit that the petitioner was appointed as Senior Laboratory Attendant in the Education Department, Punjab vide order dated 30.05.2011, Annexure P-2, pursuant to advertisement dated 23.09.2009, Annexure P-1, on contractual basis, initially for a period of three and a half years, to be regularized thereafter subject to satisfaction of her work and conduct, after scrutiny of her documents. The requisite qualification for appointment was Matric with Science subject (Physics and Chemistry). The services of other similarly situated employees were regularized but the claim of the petitioner for the same was not considered, as she was possessing the higher qualification of M.Sc. through the University outside territorial jurisdiction of Punjab, for which she was awarded 6 marks, which also led to non-consideration of her case for promotion to

Master Cadre. During the pendency of the present writ petition, her services had been regularized w.e.f. 06.04.2014, the date that of her colleagues, vide order dated 17.08.2023, however she has not been granted the financial benefits from the said date on the premise that the issue with regard to the same is pending in LPA-1843-2019 Government of Punjab vs. Karamjeet Kaur, which is not tenable inasmuch as the said degree was not basic qualification required for the post in question by the petitioner. She has also been promoted by the respondents, from the post of S.L.A to Master Cadre, w.e.f. 15.05.2021, vide order dated 23.02.2024. Thus, once the regularization and promotion to higher post has been granted to her, she is also entitled to monetary benefits. It is submitted that the petitioner is ready to furnish an undertaking, as the respondents may deem appropriate. He otherwise refers to the judgments in **Varinder Hans vs. Union of India and others**, 2019 (4) S.C.T 513 and **Buddhi Nath Chaudhary vs. Abahi Kumar**, 2001 (2) SCT 352 to contend that it has been held that where there is no misrepresentation on the part of a candidate for seeking appointment to the post, her services cannot be dispensed with for want of requisite qualifications. Reliance is also placed on the judgment passed in CWP-13969-2020, **Nishu Jain vs. State of Punjab & Anr.**, decided on 29.02.2024, whereby a similarly situated person was granted the relief claimed presently.

3. On the contrary, learned State counsel submits that since the issue regarding the qualification, on the basis of which, additional marks were given to the petitioner, is subjudice, she was rightly not granted the financial benefits.

4. Having heard the learned counsel for the parties, once the respondents have, during the pendency of the present petition itself, decided and granted the substantive relief of regularisation and promotion as claimed, to the petitioner, there appears to be no justification to withhold the benefits accruing

therefrom, on the premise of the pendency of the afore-mentioned LPA. She being

an employee, working for the last almost 13 years, the interest of the State can be protected by directing it to release the amount to her, on an undertaking being furnished by her by way of an affidavit, that the same shall remain subject to the outcome of the LPA.

5. The present petition stands disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

April 02, 2024
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No