



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

108

LPA No.1384 of 2024 (O&M)
Date of Decision: 31.05.2024

Saddik Ahmed

.....Appellant

Vs

State of Haryana and others

.....Respondents

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

Present: Mr. Mohammad Arshad, Advocate
for the appellant.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (ORAL)

CM No.3305-LPA of 2024

This is an application for condonation of delay of 4 days in filing
the appeal.

In view of averments made in the application supported by an
affidavit, delay of 4 days in filing the appeal is condoned.

Application stands allowed.

Main case

1. The present appeal is directed against the order of learned Single
Judge dated 23.04.2024, wherein the challenge was raised to the order
dated 20.02.2024 (Annexure P-16), whereby claim of seniority and grant of
notional ante- dated promotion to the post of Principal and all consequential
benefits w.e.f. 20.07.2007, the date when his juniors were given promotion,



was rejected.

2. The authorities came to the conclusion that the appellant was appointed on 18.10.1991 and the Department fixed his seniority No.222 according to his date of appointment and seniority has been fixed as per the seniority list of July, 2019 according to the Haryana State Education School Cadre (Group-B) Service Rules, 2012. Resultantly, the representation dated 11.01.2023 regarding rectification of seniority list of Post Graduate Teachers was rejected.

3. Learned Single Judge while dismissing the writ petition noticed these facts and also noticed that ante-dated seniority was given to other Principals in compliance of orders passed by this Court, to which the learned counsel for the appellant has also made reference. One such case is CWP No.22240 of 2023 titled Rakesh Kumar Vs. State of Haryana and others decided on 05.10.2023. There are similar orders like CWP No.20759 of 2023, wherein further action has been taken for upgrading the seniority and show cause notice has been issued. The genesis as such of passing of the order by the authorities is to be traced back to the representation dated 11.07.2023 (Annexure P-12), which was moved for the first time.

4. Perusal of the representation dated 11.07.2023 (Annexure P-12) would go on to show that the appellant was appointed on 18.10.1991. It was his grouse in the said legal notice that his junior Principals had been shown seniors and various details have been given, wherein the persons appointed on 25.10.1991 as such were shown above him. The relevant part of the representation as such reads as under:-



“Appointment of example Sr. No.1 to 21 was made in the department on dated 25.10.1991 whereas my appointment was shown at No.22 which was made on dated 18.10.1991 and I have been shown as junior. On the basis of logic my seniority number as per state level Principal seniority list (01.02.2023) may be amended from serial Number 817. I may be promoted on the post of Sub District Education Officer. I also wants to apprise that in past I have since been sent my representation on dated 06.01.2022 and on dated 08.05.2023 to the department. For further proceedings representation is being submitted for your kind perusal.”

5. It is thus apparent from the year 1991 that he never objected to the fact that he has been placed below his juniors. It is the first time by serving the representation and coming to this Court, he sought direction for consideration of his representation by filing CWP No.24030 of 2023. In such circumstances, the order has been passed.

6. In service matters, it is settled principle that employee has to agitate for his grievances at the earliest. Even perusal of letter dated 08.05.2023 (Annexure P-8) would go on to show that his grouse as such was regarding promotion made to the post of Principal in the year 2007 and he had claimed promotion for the post of Principal from 20.07.2007 in the year 2023. Reliance can be placed upon plethora of judgments of the Apex Court wherein it has been observed that if any employee as such is aggrieved regarding the seniority, he has to seek redressal at the earliest. The judgment's start from **P.S. Sadasivaswamy Vs. State of Tamil Nadu, (1975) 1 SCC 152.**



7. In **P. Chitharanja Menon & others Vs. A. Balakrishnan and others 1977 (2) SLR 289**, a three Judges Bench of the Hon'ble Apex Court held that once the legality of the promotion made in 1962 had not been challenged then the validity of the Government order in 1969 could not be challenged by filing a writ petition in the year 1972. The present case is also somewhat similar.

8. The Apex Court in **Shiba Shankar Mohapatra Vs. State of Orissa 2011 (1) RSJ 624**, has held that in seniority matters, delay should not be beyond a period of 3 years and the reasons for not approaching the Court should be explained. The relevant observation reads as under:

“29. Thus, in view of the above, the settled legal proposition that emerges is that once the seniority had been fixed and it remains in existence for a reasonable period, any challenge to the same should not be entertained. In K.R. Mudgal (supra), this Court has laid down, in crystal clear words that a seniority list which remains in existence for 3 to 4 years unchallenged, should not be disturbed. Thus, 3-4 years is a reasonable period for challenging the seniority and in case someone agitates the issue of seniority beyond this period, he has to explain the delay and laches in approaching the adjudicatory forum, by furnishing satisfactory explanation.”

9. It is not disputed that the appellant had retired on 31.03.2023 and is at present serving on extension, during which period, there is never any right for consideration for promotion.

10. In such circumstances, we are of the considered opinion that if similarly placed employees have been filing writ petitions and seeking



redressal and have been successful and the Department as such has granted the benefits, the appellant cannot wake up as such at this belated stage and seek the benefit for reconsideration of his seniority. In such circumstances, we are of the considered opinion that learned Single Judge as such was justified in dismissing the writ petition.

11. The present appeal stands dismissed accordingly.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

(LAPITA BANERJI)
JUDGE

31.05.2024
Prince

Whether speaking/reasoned Yes/No

Whether reportable Yes/No