



CM-12258-CWP-2023 in/&  
CWP-28547-2013 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CM-12258-CWP-2023 in/&  
CWP-28547-2013 (O&M)  
Date of Decision :06.08.2024

Tejinder Singh

...Petitioner

Versus

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Petitioner in person.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

\* \* \*

**Harsimran Singh Sethi, J. (Oral)**

**CM-12258-CWP-2023**

As prayed for, application is allowed.

**CWP-28547-2013**

In the present petition, grievance being raised by the petitioner, who appears in person is that he is entitled for the grant of benefit of promotion to the post of Lecturer in Mathematics but the said benefit has wrongly been denied to him by the respondents vide order dated 19.07.2013 (Annexure P/5).

The petitioner submits that there was no impediment in his promotion to the post of Lecturer in Mathematics and as the juniors of the petitioner have already been promoted, the petitioner is also entitled for the



**CM-12258-CWP-2023 in/&  
CWP-28547-2013 (O&M)**

**-2-**

grant of benefit of promotion to the post of Lecturer in Mathematics with effect from the date his juniors have been promoted with all consequential benefits including arrears alongwith interest.

Upon notice of motion, the respondents have filed reply wherein the stand which has been taken by the respondents in the impugned order dated 19.07.2013 (Annexure P/5) has been reiterated that claim of the petitioner for the grant of benefit of promotion to the post of Lecturer in Mathematics was considered along with other eligible candidates but as the petitioner could not fulfill the criteria required for promotion to the post of Lecturer in Mathematics keeping in view his annual confidential reports, the petitioner could not be promoted and hence, the petitioner cannot claim benefit of promotion as a matter of right despite being found not eligible as per the criteria, which has been followed by her respondents for the grant of benefit of promotion to the post in question.

The petitioner argues that annual confidential reports of the petitioner, which were never conveyed him, have been taken into account so as to adjudge his eligibility for promotion and once, the annual confidential reports were not conveyed to the petitioner, the same cannot be taken into account so as to deny the petitioner benefit of promotion to the post in question.

I have heard the petitioner as well as learned counsel for the respondent-State and have gone through the record.

The only question which arises for determination before this Court is whether the petitioner is entitled for the grant of benefit of



CM-12258-CWP-2023 in/&  
CWP-28547-2013 (O&M)

-3-

promotion to the post of Lecturer in Mathematics or not.

As per the respondents, the criteria which has been framed for the grant of benefit of promotion to Class-II post has been followed keeping in view the instructions, which have been issued by the Government of Punjab, according to which, for promotion to Class-II post, keeping in view the annual confidential reports, the petitioner has to secure 10 marks whereas, keeping in view five annual confidential reports of previous years available for appreciation, the petitioner has only secured 09 marks. The said details as given in the impugned order have been reiterated in the reply as well.

That being so, once, the petitioner failed to secure 10 marks, which is a benchmark provided for promotion of the Class-II post, the petitioner were not cannot claim promotion as a matter of right.

The argument of the petitioner that annual confidential report for the year 2005-2006 and 2006-2007, which have been treated as 'average reports' were not conveyed to him hence, the same cannot be taken into consideration, the said argument carries weight.

The said argument needs to be appreciated keeping in view the judgment of the Hon'ble Supreme Court of India in **Civil Appeal No.7631-2002, titled as Dev Dutt vs. Union of India and others decided on 12.05.2008** wherein, it has been held that where the annual confidential report, which is being treated as 'adverse report' has not been communicated, an employee has to be given a chance to make representation against the same and in case, after consideration of said



**CM-12258-CWP-2023 in/&  
CWP-28547-2013 (O&M)**

**-4-**

representation, the said annual confidential report is upgraded, required benefit needs to be given to the employee concerned. Relevant paragraphs of the said judgment are as under:-

“47. We are informed that the appellant has already retired from service. However, if his representation for upgradation of the 'good' entry is allowed, he may benefit in his pension and get some arrears. Hence we direct that the 'good' entry of 1993-94 be communicated to the appellant forthwith and he should be permitted to make a representation against the same praying for its upgradation. If the upgradation is allowed, the appellant should be considered forthwith for promotion as Superintending Engineer retrospectively and if he is promoted he will get the benefit of higher pension and the balance of arrears of pay along with 8% per annum interest.

48. We, therefore, direct that the 'good' entry be communicated to the appellant within a period of two months from the date of receipt of the copy of this judgment. On being communicated, the appellant may make the representation, if he so chooses, against the said entry within two months thereafter and the said representation will be decided within two months thereafter. If his entry is upgraded the appellant shall be considered for promotion retrospectively by the Departmental Promotion Committee (DPC) within three months thereafter and if the appellant gets selected for promotion retrospectively, he should be given higher pension with arrears of pay and interest @ 8% per annum till the date of payment.”

Keeping in view the above, present petition is disposed of with the direction to the respondents that in case, the petitioner files a representation against the annual confidential reports for the years 2005-2006 and 2006-2007, the same be considered in accordance with law and an appropriate speaking order be passed within a period of 08 weeks from the date of receipt of such representation and in case, after the decision of

CM-12258-CWP-2023 in/&  
CWP-28547-2013 (O&M) -5-

the said representation the petitioner is found entitled for any relief, the same be extended to him within a further period of four weeks.

Civil miscellaneous application pending, if any, is also disposed of.

August 06, 2024

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No