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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 23.07.2024

(I) CWP-22441-2017 (O&M)

DR. PRAMOD KUMAR BAJPAI

...Petitioner

VERSUS

DIRECTOR, HIGHER EDUCATION, HARYANA AND OTHERS

...Respondents

(II) CWP-17456-2018 (O&M)

DR. PRAMOD KUMAR BAJPAI

...Petitioner

VERSUS

DIRECTOR GENERAL, HIGHER EDUCATION, HARYANA AND
OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. D. S. Patwalia, Senior Advocate with
Mr. Armaan Dahiya, Advocate
for the petitioner in CWP-17456-2018.

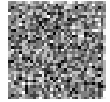
Mr. R. Kartikeya, Advocate
for the petitioner in CWP-22441-2017.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Amarjit Singh Virk, Advocate
for respondent No.2-Kurukshetra University.

Mr. Rahul Sharma, Advocate
for respondent No.3 in CWP-22441-2017.

Mr. Subhash Ahuja, Advocate
for respondent No.4 in CWP-17456-2018.



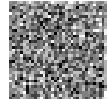
JASGURPREET SINGH PURI, J. (Oral)

1. Both these petitions are taken up together for final disposal with the consent of learned counsel for the parties since both the petitions have been filed by the same petitioner.

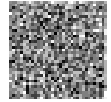
2. CWP-22441-2017 has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the orders dated 05.05.2016 (Annexure P-13), dated 06.08.2016 (Annexure P-14) and dated 24.08.2017 (Annexure P-19), which have been passed without granting the petitioner a valid and reasonable opportunity of hearing in violation of principles of natural justice.

3. CWP-17456-2018 has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the order dated 11.06.2018 (Annexure P-21), vide which in an illegal and arbitrary manner and without granting the petitioner a valid and reasonable opportunity of hearing, the respondent No.1 has withdrawn his approval dated 05.07.2011 for petitioner's appointment as Principal of respondent No.3-College.

4. The controversy involved in the present case is that the petitioner applied for the post of Principal in the College, namely, Maharaja Agrasen Mahavidyalaya, Jagadhari, which is respondent No.3 in both the petitions. Initially, the petitioner applied for the post of Principal in the year 2008 but the aforesaid selection process did not commence and thereafter, a fresh selection process started in the year 2010 and the petitioner again applied for the post of Principal and thereafter, he was selected on the aforesaid post, on which he



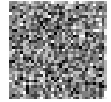
joined. After the selection of the petitioner was approved by the University, one complaint was received by the College and the University that the petitioner has concealed facts at the time of filling of the application form for the aforesaid selection process. It was so stated in the complaint that at the time when the petitioner filled the application form for appointment to the post of Principal, he was facing criminal prosecution but he did not disclose the same. So far as the record of the selection process is concerned, the same is stated to be lost by the College. So far as the selection process of the year 2010 is concerned, whereby the petitioner had been selected for the post of Principal, according to the petitioner while filling the application form he had disclosed about the aforesaid pendency of criminal case against him, which is so depicted in clause (I) of the application form (Annexure P-2). However, the record of the aforesaid application form is not available anywhere. On the basis of the aforesaid complaint, the Director, Higher Education, Haryana, Panchkula passed an order on 05.05.2016, which is Annexure P-13 in CWP-22441-2017 and Annexure P-11 in CWP-17456-2018, wherein the private management of the aforesaid College was ordered to take appropriate action as per the Rules immediately and send the report to the Directorate. Thereafter, vide Annexure P-14 in CWP-22441-2017 and Annexure P-12 in CWP-17456-2018 dated 06.08.2016, the respondent-Kurukshetra University wrote a letter to the Governing Body of the aforesaid College that the approval dated 10.10.2011 earlier granted with regard to the petitioner for the post of Principal may be treated as withdrawn with immediate effect. Thereafter, vide Annexure P-19 in CWP-22441-2017 and Annexure P-18 in CWP-17456-2018 dated 24.08.2017, the respondent-



Kurukshetra University passed an order, whereby it was so ordered that on the basis of the recommendations of the Committee duly approved by the Executive Council, it is so desired by the Vice Chancellor to inform that letter of 16.08.2016 regarding withdrawal of the selection of the petitioner may be treated as final. In this way, the University also withdrew the approval. The petitioner filed CWP-22441-2017 impugning all the aforesaid three orders i.e. dated 05.05.2016 (Annexure P-13), dated 06.08.2016 (Annexure P-14) and dated 24.08.2017 (Annexure P-19).

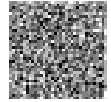
5. Thereafter, the petitioner filed a second petition bearing CWP-17456-2018, whereby he impugned a subsequent order which was passed by the Director General, Higher Education, Haryana, Panchkula dated 11.06.2018 (Annexure P-21), whereby the Governing Body of the College was directed that in view of the decision of the University, the department has decided to withdraw the approval for appointment of the petitioner as Principal of the College given by the then Higher Education Commissioner, Haryana, Panchkula. In this way, the approval of the petitioner for being appointed to the post of Principal stood withdrawn by the University and by the Director, Higher Education, Haryana, Panchkula.

6. Learned Senior Advocate appearing on behalf of the petitioner in CWP-17456-2018 submitted that it is a case where the reason for withdrawal of the approval by the University and by the Director, Higher Education, Haryana, Panchkula was that the petitioner has concealed material facts of pendency of criminal prosecution against him at the time of filling of the application form, whereas the record of the same is not even available as per the College and the



University itself and therefore, it cannot be presumed that the petitioner did not fill the aforesaid application form in accordance with the information which was required to be provided. He further submitted that be that as it may, now with the efflux of time the petitioner has already retired from the College after attaining the age of superannuation on 31.01.2024. He further submitted that when the aforesaid petition bearing CWP-17456-2018 was filed by the petitioner, then while issuing notice of motion on 19.07.2018, an interim order was passed by this Court by which the operation of the impugned order dated 11.06.2018 (Annexure P-21) was stayed and it was directed that the petitioner will be treated as a regular employee and be paid salary etc. till further orders. He further submitted that the aforesaid order remained in operation till the time the petitioner attained the age of superannuation. He further submitted that now once the petitioner has already retired and he had discharged his duties as Principal in accordance with the interim order passed by this Court as aforesaid, the petitioner is entitled for the grant of all the retiral benefits in this regard. He also submitted that in pursuance of the aforesaid order, salary has been paid to the petitioner except for the month of January, 2024 and with regard to the same there is no dispute but during the pendency of the present writ petition, respondent No.4, who was the complainant has filed some more complaints against the petitioner in this regard, which itself cannot become a ground for withholding the retiral benefits of the petitioner.

7. On the other hand, learned counsel for respondent No.3-College in CWP-22441-2017 submitted that he does not dispute the fact that the petitioner had continued on the aforesaid post in pursuance of the order passed by this



Court on 19.07.2018 and he retired from the College on attaining the age of superannuation.

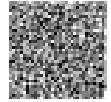
8. Learned counsel for the respondent-Kurukshetra University submitted that so far as the University is concerned, it has no concern with regard to the grant or non-grant of the retiral benefits to the petitioner because the University was only concerned with regard to the approval which was withdrawn.

9. Learned counsel for respondent No.4-complainant in CWP-17456-2018 submitted that the petitioner has deliberately concealed material facts at the time of filling his application form and because of his active concealment regarding pendency of criminal prosecution against him at the time when he applied for the aforesaid post, he was not entitled for being appointed on the aforesaid post and now after retirement, he is not entitled for retiral benefits.

10. I have heard the learned counsels for the parties.

11. With the efflux of time, the petitioner has already retired on 31.01.2024 on attaining the age of superannuation. In CWP-17456-2018, when notice of motion was issued, the following order was passed:-

“Though not on caveat, Mr. J.S. Rana, Advocate appears on behalf of the complainant-Mr. G.D. Gupta, Advocate and prays that he may be impleaded as a party. Without going into his locus standi, the request of the learned counsel is allowed and Mr. G.D. Gupta, Advocate is added as respondent No.4 in the array of parties.



On the asking of the Court, Mr. Harish Rathee, Senior DAG Haryana accepts notice on behalf of the respondent-State.

Registry to issue summons to respondent No.2 in this manner: Kurukshetra University, Haryana-136119 through its Registrar.

Process dasti.

Learned counsel for the petitioner to file amended memo of parties today.

Learned counsel for the petitioner to supply requisite number of copies of paper book to the opposite counsel during the course of day.

Heard learned senior counsel on merits.

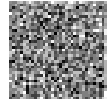
The criminal case was taken into consideration in 2011 when appointment was offered. Approval was granted by the University and Government and the respondents were cognizant of FIR under Section 506 IPC against the petitioner. Charge sheet issued was dropped and the petitioner was exonerated in the enquiry and yet the employer has raked up the criminal case by withdrawing the order of approval of 2011 which would result in termination. Order impugned is Annex.P-21.

Mr. Rathee to obtain instructions/file reply.

In the meanwhile, operation of the impugned order shall remain stayed and the petitioner will be treated as regular employee and paid salary etc. till further orders.

List on 30.07.2018.”

12. A perusal of the aforesaid order would show that it was specifically so directed by way of an interim order that the operation of the impugned order (Annexure P-21) shall remain stayed and it was further directed that the



petitioner will be treated as regular employee and be paid salary etc. till further orders. Thereafter, the aforesaid order continued till the time the petitioner retired. In other words, the petitioner continued in service in pursuance of the aforesaid order passed by this Court till the time the petitioner attained the age of superannuation. The petitioner has also been paid salary for the time he discharged his duties in pursuance of the order passed by this Court. Now the only dispute which remains is as to whether the petitioner is entitled for the grant of retiral benefits and salary for the month of January, 2024 or not.

13. Learned counsel for respondent No.4-complainant in CWP-17456-2018 contended that the basic appointment of the petitioner was not in accordance with law because he had concealed material facts at the time of filling the application form. However, as per all the learned counsels for the parties, the application by which it is so stated that the petitioner had concealed material facts is not even available on the record. Therefore, there would be no occasion for this Court to deal with the aforesaid submission with regard to as to whether the petitioner concealed those facts or not in the absence of any record. The petitioner has already retired with the efflux of time and in pursuance of the order passed by this Court on 19.07.2018, he has been paid salary and he had worked in the College and therefore, this Court would not go into the issue as to whether the appointment of the petitioner on the post of Principal was bad or not in the absence of the record.

14. The only issue which now survives with the efflux of time is as to whether the petitioner would be entitled for grant of retiral benefits or not. Since the petitioner has already worked on the aforesaid post and has



discharged the duties of Principal till the time he attained the age of superannuation and his appointment although was withdrawn but by virtue of the aforesaid order passed by this Court, the operation of the impugned order dated 11.06.2018 (Annexure P-21) itself was stayed, this Court is of the considered view that the petitioner will be entitled to all the retiral benefits which have accrued to him.

15. In view of the aforesaid facts and circumstances, both the petitions are disposed of. Respondent-College shall pay all the retiral benefits to the petitioner and in case the salary of the month of January, 2024 has not been paid then the same shall also be paid to the petitioner, within a period of three months from today.

23.07.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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