

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CWP-29904-2017
Date of Decision: 09.01.2024

Suresh Chander ...Petitioner(s)

Versus

State of Haryana and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Ms. Manpreet, Advocate for Mr. Saurabh Bajaj, Advocate
for the petitioner

Mr. Rohit Arya, DAG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to re-fix the petitioner's pay and grant him benefit of promotion as Laboratory Assistant from 21.08.1983 instead of 23.07.1997, when he was actually promoted to the post of Laboratory Assistant from the feeder post of Laboratory Attendant (Matriculate).

2. Undisputed facts on record are, the petitioner was duly considered, and promoted as Laboratory Assistant with effect from 03.04.1997. His request for ante-dated promotion with effect from 21.08.1983 cannot be considered since there was no vacant post available at that time in the college. Respondents no.1 & 2 have filed a written statement to that effect; the relevant paragraphs of the same are reproduced hereunder:

2. ... As per the information received from respondent no.3 there was no vacant post of Lab. Assistant available in the college from the year 1983 to 1993. It is worthwhile to mention here that promotion from Lab. Attendant to Lab. Assistant can be

done only against the sanctioned vacant post. Since there was no vacant post available, therefore, the promotion of the petitioner was not possible at that time i.e. in the year 1983.

3. That it is worthwhile to mention here that as per the comments received from the college, the post of Lab. Assistant got vacant in respondent college in the year 1993. Respondent no.3 made request to the office of answering respondent no.2 vide its letter no. 596 dated 12.03.1997 for promotion of the petitioner as Lab. Assistant. The request of the college was duly considered by the office of answering respondent no.2 and the petitioner was promoted as Lab. Assistant vide letter no. 18/81-89 C-II (4) dated 03.04.1997. Thus, the contention raised by the petitioner in the present writ petition is liable to be dismissed on this score only. Copy of the comments/information dated 05.09.2019 received from respondent no.3 is attached herewith as **Annexure R-1.**

3. The facts aforestated have not disputed by learned counsel for the petitioner by filing counter affidavit, nor has any other material been placed on record.

4. In view thereof, there is no merit in the petitioner's claim as in the absence of any vacant post he could not have been considered for promotion. Besides, after accepting the promotion with effect from 12.03.1997, he cannot be permitted at this belated stage to file the instant petition seeking ante-dated promotion.

5. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

09.01.2024

PAYAL
2024.01.11 10:18
I attest to the accuracy and
authenticity of this order/judgment

Payal

Whether speaking/reasoned

Yes/No

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>