



CWP-27082-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-27082-2022 (O&M)

Date of Decision :06.09.2024

Meena Bharti and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ranjit Singh Kalra, Advocate with
Ms. Mona Yadav, Advocate for the petitioners.

Mr. Amarpreet Singh Bains, AAG, Punjab

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petition, grievance being raised by the petitioners is that they are entitled for appointment to the post of Principal with effect from the date the other similarly situated employees, who competed for the post in question in pursuance to the advertisement dated 09.03.2019 (Annexure P/1), were appointed.

As per the facts mentioned in the present petition, an advertisement dated 09.03.2019 (Annexure P/1) was issued by the Punjab Public Service Commission for filling up 154 posts of Principal. The petitioners, who were fully eligible to apply for the said post had applied and competed for the post in question. Due to doubt qua the eligibility of the petitioners, the other candidates, who were lower in merit were appointed but the petitioners were not given appointment, which act on the



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part of the respondents was challenged by the petitioners by way of filing CWP-18931-2019 & CWP-20143-2019.

The said petitions came up for hearing before the Coordinate Bench of this Court wherein, the respondents made a statement that petitioners have been treated eligible for consideration of their appointment to the post of Principal and as the petitioners have already been interviewed keeping in view the interim order passed and their result has already been kept in sealed cover, direction was given to open the sealed cover and process the claim of the petitioners accordingly.

Thereafter, the respondents, upon opening the sealed cover and finding that petitioners were eligible for selection and were meritorious enough to be appointed against the advertised posts were appointed to the post of Principal vide order dated 26.08.2020 (Annexure P/16).

The grievance of the petitioners is that the candidates, who were lower in merit have been appointed on the date prior to the date of appointment of the petitioners hence, the petitioners be given benefit of notional appointment from the date when the candidates lower in merit have been granted appointment and that too with consequential benefits.

Upon notice of motion, the respondents have filed reply wherein, all the facts as stated hereinbefore, have not been disputed. The only reason given for not giving appointment to the petitioners from the date the candidates lower in merit have been appointed is that no such direction was given by this Court while passing order in CWP-18931-2019 & CWP-20143-2019.

I have heard learned counsel for the parties and have gone

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through the record with their able assistance.

Once, the petitioners competed for the post of Principal and were declared eligible and were ultimately appointed, the respondents have to adhere to the merit list to grant appointment. It cannot be said that a candidate, who is lower in merit is to be appointed on a date prior to the date of appointment of the candidate higher in merit.

Further, in the present case, eligibility of the petitioners was being disputed by the respondents but ultimately the respondents themselves found the petitioners eligible and on the basis of the statement of the respondents, a direction was given by this Court to consider the claim of the petitioners for appointment against the posts advertised.

Once, the petitioners have been treated eligible and they have been selected and appointed also, the petitioners are entitled for appointment from the date when the candidates lower in merit have been appointed otherwise it will create anomaly that candidate having higher merit will be treated junior to the candidate having lower merit, which is impermissible. Hence, the respondents are directed to grant the petitioners benefit of notional appointment from the date of appointment of the candidates lower in merit, who also competed for the post in question in pursuance to the advertisement dated 09.03.2019 (Annexure P/1) and have been given appointment. The petitioners will be given notional seniority from the date candidate lower in merit was appointed but as conceded by the learned counsel for the petitioners that the petitioners are not claiming any financial benefit upon their retrospective appointment, the petitioners will be given all other benefits including seniority as well as counting the said period as

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experience and for fixing the salary of the petitioners in the cadre of Principal except arrears of salary upon retrospective appointment.

Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

Present petition is allowed in above terms.

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

September 06, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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