

LPA-1879-2023 (O&M)

2024:PHHC:099036-DB



**110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**LPA-1879-2023 (O&M)
Date of Decision: August 2, 2024**

Jarnail Singh

..... Appellant

Versus

State of Punjab and others

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Dr. Naresh Kaushik, Advocate for the appellant.

Mr. R.S. Pandher, Sr. DAG, Punjab.

LISA GILL, J.

1. This appeal has been filed challenging order dated 12.09.2023 whereby CWP-3221-2012 filed by appellant (writ petitioner) has been dismissed. Above said writ petition was filed by appellant (writ petitioner) seeking directions to respondents to grant promotion to the appellant from the date he became eligible under 3% quota for handicapped category. Appellant (writ petitioner) claimed 62% locomotor disability. It was pleaded that he had joined Education Department as Adhoc JBT teacher on 17.03.1976. His services were regularized vide order dated 11.01.1979 w.e.f. 03.05.1977. Appellant (writ petitioner) was promoted to the post of Head Teacher vide order dated

LPA-1879-2023 (O&M)

29.08.2005. It was his contention that reservation of not less than 3% has to be provided by the Department for promotion to the post in question. Reference was also made to order dated 24.05.2010 passed in CWP-5809-2010 (Youth Welfare Association versus State of Punjab and others) and order dated 06.09.2010 in CWP-11467-2010 (Disabled Persons Association versus State of Punjab and another). It was submitted that as per Punjab State Education Class III (Primary Schools cadre) Service Rules, 1997, 75% of available post are to be filled by way of promotion from amongst Head Teacher on the basis of seniority-cum-merit.

2. Roster point for the post of Circle Head Teacher at serial Nos. 11, 40 and 71 were reserved for disabled and appellant (writ petitioner) claimed entitlement for promotion and especially with issuance of instructions dated 05.07.2011. Claim set up by writ petitioner was opposed by respondents on the ground that he had since retired from service on 31.03.2012 and that no promotion in the said category had been carried out since 28.12.2010. Stand of respondents was that writ petitioner was not considered for promotion in this category because after 28.12.2010, no DPC was held and that after 28.12.2010 not a single Head Teacher of any category was promoted as Circle Head Teacher, therefore, there is no question of ignoring the writ petitioner for promotion.

3. Learned Single Judge vide impugned order dated 12.09.2023 concluded that as it is only the right for consideration for promotion, which is available to the employee but as exercise in this respect had not been conducted after 28.12.2010 with no DPC being convened upto the period when writ petitioner retired on 31.03.2012, he could not have been considered for

LPA-1879-2023 (O&M)

promotion. It was noted that no person junior to writ petitioner had been given promotion from any retrospective date. Thus, claim of the writ petitioner was found to be unsubstantiated. Hence, writ petition was dismissed. Aggrieved therefrom, this appeal has been filed.

4. Learned counsel for appellant vehemently argued that merely because no other junior was promoted in the category cannot be a ground to deny promotion to the appellant especially when it is a matter of record that appellant was the only person available for promotion in the category in question. It is provided in the Rules that candidate in question should possess experience of working as teacher for a minimum period of ten years out of which three years should be as Head Teacher. Appellant fulfilled the stipulated criterion, hence, is entitled to promotion.

5. Though notice of motion was not issued in this appeal, learned counsel for State (on advance notice) has opposed the appeal while submitting that a well reasoned and logical order has been passed by learned Single Judge, which should be upheld.

6. We heard learned counsel for parties and have gone through the file.

7. Appointment of writ petitioner as is pleaded, his promotion to that of Head Teacher and his date of retirement are all matter of record. It is further undeniable that exercise for promoting eligible candidates from Head Teacher was not conducted after 28.12.2010. Legal notice was served by petitioner on 11.06.2011. DPC was never convened upto the period the appellant retired on 31.03.2012. It is a settled position that an employee does not have a vested right for promotion while having only right for consideration for promotion. In the given factual position, wherein it is admitted that appellant (writ petitioner) was

LPA-1879-2023 (O&M)

never ignored for promotion and neither has any person lower in seniority being promoted, writ petition has been correctly dismissed by learned Single Judge. Learned counsel for appellant is unable to point out any infirmity, irregularity or perversity in impugned order dated 12.09.2023 which calls for any interference.

8. Keeping in view of the facts and circumstances as above, this appeal is dismissed with no order as to cost.

(LISA GILL)
JUDGE

August 2, 2024
Rts

(SUKHVINDER KAUR)
JUDGE

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