



RSA-510-2020 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**RSA-510-2020 (O&M)
Reserved on : 10.09.2025
Pronounced on : 15.09.2025**

Sarjeewan Rani

.....Appellant

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Prince Goyal, Advocate,
for the appellant.

Mr. Animesh Sharma, Addl. A.G., Punjab,
for the respondents.

SUDEEPTI SHARMA J. (ORAL)

1. The present Regular Second Appeal is preferred against the judgment and decree dated 16.12.2019 passed by learned District Judge, Bathinda, whereby, the appeal filed by the respondent-State against the judgment and decree dated 05.04.2019 passed by learned Civil Judge (Junior Division), Bathinda, has been allowed and the judgment and decree dated 05.04.2019 was set aside.

2. Brief facts of the case as pleaded in the civil suit are that the appellant was appointed as Lab Attendant in the Department of Education, Punjab, and thereafter, was regularized w.e.f 24.04.1981. Subsequently, Government of Punjab placed all the Lab Attendants, including the appellant, in the pay scale of Rs.400-600 and designated them as Senior Lab



Attendant. As per the instruction of Department of Education, Punjab, dated 17.05.1986, Lab Attendant, who were matriculate and were appointed before 01.01.1984 as Class-IV were to be considered as Class-III employees. The date of appointment of the appellant was 28.11.1981 and she was matriculate and drawing the pay scale of Rs.400-600, the entry to that effect was made in the service record as well. In March, 2009, the appellant passed B.P.Ed. course after obtaining due permission from the department as per rules. In February, 2012, the Department of Education, Punjab, invited promotion case from the schools of Punjab for the promotion of non-teaching staff to master cadre and according to instructions, the case of the appellant was also forwarded by the Principal, vide letter dated 27.02.2012. Her name was not mentioned in the promotion list of the teachers, who were promoted by the Director, Department of Education, Punjab, vide order dated 10.09.2013, which was released on 12.09.2013 and was endorsed by the Director Education Officer (Secondary Education), Bathinda). Since the juniors to the appellant were promoted to the post of D.P.E. in master cadre and the claim of the appellant was not considered for promotion by respondents No.2 and 3, she represented to the higher authorities of the department. On 26.02.2016, she received a letter issued by respondent No.2 to contend that the her case was considered as per notification of the Government dated 17.11.1984. Further, that to consider her case, her appointment as Senior Lab Attendant i.e. Class-III employee, there should be entry to that effect in her service record, which entry was not there in the case of the appellant.



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On further representation by the appellant to respondent No.2, it was rejected on the ground that the letter for promotion of non-teaching cadre to the master cadre was withdrawn by the Government. Therefore, the promotion case of the appellant could not be considered.

Thereafter she filed civil suit for declaration to the effect that she be promoted with effect from 13.09.2013 on which date juniors to her were promoted and she be entitled to receive all consequential service and monetary benefits from the said date along with interest @ 18% per annum and she is also entitled to suitable compensation on that account. Further, suit for mandatory injunction for issuance of direction to the respondents to promote the appellant with effect from 13.09.2013 on which date juniors to the appellant were promoted and further be awarded all consequential service and monetary benefits from that date along with interest @ 18% per annum. The civil suit filed by her was partly decreed in her favour by declaring her entitled, to be promoted with effect from 13.09.2013 as D.P.E Master Cadre and to receive all consequential service and monetary benefits from the said date along with interest @ 6% per annum, vide judgment and decree dated 05.04.2019 passed by learned Civil Judge (Junior Division), Bathinda. Respondent-State filed appeal against the judgment and decree dated 05.04.2019 and the same was allowed by learned District Judge, Bathinda, vide its judgment and decree dated 16.12.2019, whereby, judgment and decree dated 05.04.2019 passed by learned Civil Judge (Junior



Division), Bathinda, was set aside. Hence, the present regular second appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. Learned counsel for the appellant contends that learned District Judge, Bathinda, did not appreciate the very fact that the case of the appellant was forwarded for promotion on 16.04.2013 by the respondents, whereas, instructions on the basis of which, the appellant was seeking her promotion was withdrawn in the year 2014. Further, other employees, whose cases were sent, along with the appellant, were already promoted. Therefore, the benefit of promotion could not be denied to the appellant. He, therefore, prays that the present appeal be allowed and the civil suit filed by the appellant be decreed in her favour.

4. Per contra, learned counsel for the respondents submits that since the circular, whereby, the petitioner was to be promoted, was withdrawn on 06.03.2014, therefore, no benefit of the circular could be granted to the appellant and the appeal filed by the respondent-State has rightly been allowed by learned District Judge, Bathinda. Hence, he prays for dismissal of the present appeal.

5. I have heard learned counsel for the parties and perused the whole record of the case with their able assistance.

6. A perusal of the record shows that the respondents filed written statement in the civil suit taking preliminary objection that letter dated 26.09.2001, vide which a decision was taken to fill up 1% quota out of



classical and vernacular cadre for making promotions in the master cadre from 10% quota and in the case of C&V cadre, it is reduced to 9% and 1% posts were to be filled up from the Ministerial Cadre/Non-teaching staff. The said letter was withdrawn on 06.03.2014. It is further stated in the written statement that the right to promotion can only be claimed on the basis of statute and in the absence of any such provision in the Punjab State Education Class-III (School Cadre) Service Rules, 1978, for promotion to the Master Cadre from the Ministerial Cadre/Non-teaching staff, the claim of the appellant is not sustainable in the eyes of law. Since, the appellant was working as Senior Lab Attendant (non-teaching staff) and was seeking promotion to Master Cadre and in the rules, there is no such provision to promote the non-teaching to teaching staff, therefore, the claim of the appellant is not sustainable.

7. A perusal of the record further shows that the instructions, on the basis of which the appellant was to be promoted, were contrary to the rules, therefore, the same were withdrawn vide letter dated 06.03.2014. In **CWP-4208-1996** titled as '**Gurdeep Singh Gill Vs. State of Punjab and others**' decided on 21.03.1996, it was held by this Court that if the rules do not provide for promotion to the post of teachers from a particular post, it is not open to the Government to issue administrative instructions to create new source of recruitment. This judgment was referred to in another **CWP-4274-2011** titled as '**Nanak Chand Vs. State of Punjab and others**' decided on 24.04.2014, wherein, this Court held that the Government cannot issue



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instructions contrary to the rules. Further held that the petitioners in the writ petition cannot claim promotion from the post of Workshop Attendant to that of Social Studies Master, since Workshop Attendant was not a feeder cadre post for promotion to the post of the Master and it was in this case only that the instructions dated 26.09.2001 and 02.05.2014 were withdrawn vide letter dated 06.03.2014, since the instructions were contrary to the rules. Therefore, once the instructions dated 26.09.2001 and 02.05.2014, on the basis of which the appellant was to be promoted, were contrary to the statutory rules and were against the judgment passed by this Court in **Gurdeep Singh Gill's case (supra)** and the above referred to instructions were withdrawn vide letter dated 06.03.2014, therefore, the case of the appellant was rightly rejected.

8. In view of the above, I do not find any infirmity or illegality in the judgment and decree dated 16.12.2019 passed by learned District Judge, Bathinda, and the same is hereby upheld.

9. Consequently, the present appeal is **dismissed**.

10. Decree sheet be drawn.

11. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

15.09.2025

Virender

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No