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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18230-2024 (O&M)

Date of Decision: 17th of March, 2025

BHARTI AND OTHERS

.....Petitioner(s)

V/s.

STATE OF HARYANA AND ANOTHER

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present Mr. Shalender Mohan, Advocate and
 Dr. Purushotam, Advocate for the petitioner.

Mr. Sanjeev Kaushik, Addl. A.G., Haryana.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioners before us assail the introduction of Clause 4 of Appendix-B to the Haryana Technical Education Department (Group-A) Service Rules, 2019 (hereinafter referred as “the Rules of 2019”) whereby post of the Vice Principal-cum-Training and Placement Officer has been introduced to be filled by promotion from those who possess one year experience as the Heads of Department of the Government Polytechnics.

2. Learned counsel for the petitioners submits that so far as the post of Heads of Department is concerned, the same is to be filled from the cadre of that particular faculty. However, for the purpose of promotion to the post of Vice Principal-cum-Training and Placement Officer, seniority of all the cadres would merge which would go contrary to the provisions of Rule 11 of the Rules of 2019, which provides that the seniority *inter se* of members of the service shall be determined by the length of continuous



service on any post in the service provided, where there are different cadres in the services, the seniority shall be determined separately for each cadre.

3. Learned counsel submits that since the Heads of the Department are from separate cadres, they cannot be merged together for the purpose of preparing seniority list for the post of Vice Principal-cum-Training and Placement Officer. It is submitted that by introducing the post of the Vice Principal-cum-Training and Placement Officer in Appendix B and providing channel of appointment by way of promotion, the chances for promotion of all the employees working in a particular faculty, where there are more than one Head of the Department, would be jeopardized and employees would suffer while officers working in other faculties where there is only one Head of the Department would get better chance of promotion. The *inter se* seniority list, which would be prepared, would affect the Lecturers' and Senior Lecturers' chances of promotion working in a particular department, like the petitioners, who are working in the Computer Department where there are 16 posts of HOD.

4. Learned counsel submits that the petitioners are still working as Lecturers and their chances of promotion would be reduced as *inter se* seniority would be prepared and the Heads of the Departments working in Computer Department, which are 16 in numbers, would not be further promoted resulting in the entire channel for promotion of all the employees reduced in the Computer Department.



5. We have considered the submissions of the learned counsel for the petitioners and carefully gone through the provisions of the relevant Rules.

6. We find that the provisions of the Rules which have been introduced in the State of Haryana vide notification dated 12.11.2019, provides avenues of promotion on each stage. As per Appendix B, one post of the Vice Principal-cum-Training and Placement Officer has been introduced, which did not exist in the earlier Rules of 1986. The channel of promotion has, thus, been increased in the new Rules of 2019.

7. The contentions of the learned counsel for the petitioners, on examination, are found to be misconceived. So far as the post of Head of the Department is concerned, the same has to be filled from that cadre alone, however, so far as the post of Vice Principal-cum-Training and Placement Officer is concerned, all the eligible officers, who are working as Head of Department in various faculties, would be considered by preparing their *inter se* seniority. Thus, a person appointed as Head of the Department say, in the Computer Faculty and a person, who is appointed as Head of Department say, in the Agricultural Engineering Department, would be considered in a seniority list based on the date on which she was promoted as Head of the Department in her particular faculty. There may be cases where more than one Heads of the Departments of a particular department may find themselves placed over and above the entire lot of the Head of the Departments of another department. However, these are the fortuitous circumstances of service which go beyond the control of any person and are



based on the availability of the posts in each department. However, we are of the firm view that they do not create any anomaly as the officers working in a particular department have different requirements and conditions of services

8. We further find that the introduction of the post creates one further avenue of the promotion to the persons holding the post of Head of the Department. None of the petitioners is HOD and no officer holding post of Head of the Department has come before us seeking any grievance.

9. The powers to introduce a new post in the Service Rules is within the exclusive domain of the State Government and amendment in the Rules or framing of new Rules is an exercise done by the Government in terms of the Article 309 or provisions of Article 309 of the Constitution of India or the powers given to them under any Act passed by the Legislature. Such Rules framed would not ordinarily be interfered by this Court unless they are shown to be in violation of any principles of the Constitution. Creation or abolition of a post, thus, is beyond the purview of judicial review as held by the apex Court in **Official Liquidator** vs **Dayananad & Ors** ; 2008 (10) SCC 1, wherein it has been observed as under:-

“41. The creation and abolition of posts, formation and structuring/ restructuring of cadres, prescribing the source and mode of recruitment and qualifications and criteria of selection etc. are matters which fall within the exclusive domain of the employer. Although the decision of the employer to create or abolish posts or cadres or to prescribe the source or mode of recruitment and lay down the qualification etc. is not immune from judicial review, the Court will always be extremely cautious and circumspect in tinkering with the exercise of



discretion by the employer. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post or number of posts be created or filled by a particular mode of recruitment. The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provisions or is patently arbitrary or vitiated by malafides.”

10. We also find that all promotions have been made as per Rule 9 (2) of the Rules of 2019 which provides “*unless otherwise provided, shall be made on seniority-cum-merit basis and seniority alone shall not confer any right to such promotions.*” Thus, we find the post of Vice Principal-cum-Training and Placement Officer has to be filled by examining the overall merit of the candidate keeping in mind his seniority. Therefore, a person may be from a particular department, though senior in the seniority list, may not be considered for promotion based on his service record.

11. The Supreme Court has examined in detail, the law relating to seniority-cum-merit and merit in the case of **Shambhu Singh Meena and Others** Vs. **State of Rajasthan and Others**; 1995 SCC (L&S) 874.

12. In view of the above, we have no hesitation in holding the contentions raised by the petitioners are without any basis and we also find that the introduction of the concerned provision in Appendix, by adding a new post, has a reasonable nexus to the purpose sought to be achieved by introduction of the new Rules of 2019 providing further avenues of promotion. In view thereto also, no case for interference is made out.

13. The Writ Petition is **dismissed** accordingly.



14. All pending applications in this case are disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[MEENAKSHI I. MEHTA]
JUDGE

March 17, 2025
Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>