
(1998) 05 P&H CK 0023
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4922 of 1988

K.L. Wadhawan

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 14-05-1998

Acts Referred:

Citation : (1998) 120 PLR 195

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : Rajesh Gumber, for the Appellant; M.L. Sarin and K.D.S. Hooda, for the Respondent

Final Decision : Dismissed

Judgement

T.H.B. Chalapathi, J.—The petitioner was appointed as a Lecturer at Hindu College, Amritsar, on 16.7.1963 and he worked in that College upto 9.7.1964. Thereafter, he left the said college and joined D.A.V. College as Lecturer in Physics on 10.7.1964. One B.L. Seth who was lecturer in Physics was appointed in D.A.V. College, on 18.2.1964 while Shri K.K. Gupta, was appointed in D.A.V. College as Lecturer in Physics on 16.10.1963. In the seniority list maintained by the D.A.V. College, Sarv Sh. B.L. Seth and K.K. Gupta were shown as senior to the petitioner.

2. In this writ petition, the petitioner is seeking the relief of issuance of a writ of certiorari to quash the seniority list circulated by the 3rd respondent on 27.1.1988 and also issuance of a writ of mandamus directing the release of selection grade to the petitioner as according to the petitioner, if his seniority is fixed over the above S/Shri B.L. Seth and K.K. Gupta, he will be among the first 20 persons on the basis of the correct seniority. Though in the main writ petition, the petitioner has not impleaded B.L. Seth and K.K. Gupta, they got themselves impleaded as respondents No. 4 and 5 in this writ petition. The D.A.V. College, Amritsar, which is respondent No. 2 filed a written statement saying that Sarv Shri B.L. Seth and K.K. Gupta joined the D.A.V. College much prior to the

petitioner's joining the same and therefore, they are rightly treated as seniors to the petitioner. It is further averred that the petitioner was confirmed as Lecturer only on 10.7.1965 whereas B.L. Seth and K.K. Gupta were confirmed as Lecturers on 18.2.1965 and 16.10.1964 respectively. Further, according to the respondents, the petitioner cannot take advantage of his one year service rendered by him in Hindu College, Amritsar. The appointment in the D.A.V. College, Amritsar is a fresh appointment and therefore his seniority was rightly fixed according to the date of his joining in the D.A.V. College and therefore the petitioner is not entitled to any of the reliefs prayed for in the writ petition. Similar, contentions have been raised by private respondents 4 to 5.

3. The only point that is to be considered in this writ petition is whether the petitioner can take advantage of the service rendered by him in Hindu College, Amritsar, prior to joining the D.A.V. College, Amritsar. It is no doubt true that both the Colleges are aided colleges.

4. Learned counsel for the petitioner placed much reliance on the decision of this court in C.W.P. No. 17354 of 1994. There the claim of the petitioners therein was for the grant of benefit of past service rendered by them in the various colleges in the State of Punjab and for the grant of senior/selection grade with all consequential benefits. That decision does not deal with the question of fixing the seniority of Lecturers inter se working in the Colleges. The question whether a person who joined later in point of time after resigning the service in other college can claim a march over and above the persons who are already working in that college, has not come up for consideration in that case. The inter se seniority of the Lecturers working in the College was not in issue in the decision relied upon. Same is the case with the decision in C.W.P. No. 8030 of 1976. Therefore, I am not able to place any reliance on the aforesaid decisions. I am of the opinion that the case is fully governed by the rules governing the service conditions of the lecturers appointed in D.A.V. College. Under the rules, governing the conditions of service, the seniority in a scale will be determined by length of service from the date of confirmation in the College. The petitioner was admittedly appointed in the year 1964 and he was confirmed on 10.7.1965 whereas Sarv Shri B.L. Seth and K.K. Gupta were confirmed on 18.2.1965 and 16.10.1964 respectively. Further under the rules governing the appointment in D.A.V. College, "a Teacher transferred from one College to another at his own request will take seniority from the date he joins the college to which he has been transferred. However, seniority of a teacher transferred from one College to another at the instance of the D.A.V. College Managing Committee will be protected".

5. There is no dispute of the fact that the 2nd respondent is running several colleges and even a teacher working in one College has been transferred on his own request to another college, he has to take the seniority from the date he joins the College to which he has been transferred. When that is the case of the Teachers working under some Management in different Colleges that a newly

appointed person, who resigned the job in the earlier College and joins in another institution, cannot claim seniority over and above the person's already working in the college. It is quite unjust to disturb their seniority because of a new entrant who joined the College afresh after serving some other College and left his service for some reason or the other. Suppose a person, who has worked in another College having aware of some contemplated disciplinary proceedings against him, resigns in that College and joins in other College, can it be said to be just to give him the benefit of length of service which he rendered in that College. Likewise a person who was getting a lower scale of pay in one College resigns his job for better prospects and joins some other college, can it be said to be just to disturb the seniority of the person, who is already working in the other college. As it is said, a rolling stone will gather no mass. So is the case of the petitioner. Further as is evident from Annexure R-2/2, the petitioner was appointed as a Lecturer in physics on a salary of Rs. 210/- plus D.A. on probation for a period of one year only, whereas the Lecturers who are already working in D.A.V. College are getting an initial pay of more than Rs. 210/-. The fact that the petitioner has been granted an initial pay of Rs. 230/- by Annexure R-2/3 does not make him senior to the persons already working in the College.

6. For the foregoing reasons, I am of the view that the petitioner cannot get any benefit of his previous service rendered by him in Hindu College, Amritsar.

7. The result is, the writ petition fails and is accordingly, dismissed. No order as to costs.