
(2008) 02 P&H CK 0155
In the Punjab And Haryana At Chandigarh

Mehar Chand and Others	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 05-02-2008

Acts Referred:

Citation : (2008) 02 P&H CK 0155

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Judgement

Ranjit Singh, J.—The petitioners, sixteen in number and working as Headmasters, have filed this writ petition seeking directions to the respondents to give benefit of seniority from the date it is due to them in the cadre of Headmaster and thereafter, promote them to the post of principal as per their seniority from the date their juniors similarly situated persons, were so promoted. Thirteen out of the sixteen petitioners have since retired. Presently, petitioner No. 1, Mehar Chand, petitioner No. 5, Ramesh Chand and petitioner No. 7, Sewa Ram, are still in service.

2. The case has a bit of history. The petitioners, who are stated to be working as Masters, approached this Court by way of Civil Writ Petition No. 9448 of 1990 making prayer for promotion to the post of Headmasters and for giving them seniority from the date the promotion became due. The said writ petition was allowed on 31.1.1991. The petitioners were promoted as Headmasters w.e.f. 16.4.1991. This order statedly was not implemented in letter and spirit on account of which the petitioners made various representations. They subsequently also filed the contempt petition for implementation of this order. They also filed another Civil Writ Petition No. 4318 of 1992. The grievance in the said writ petition was that the petitioners, who are scheduled caste candidates, were not being given the benefit of reservation policy and, thus, being denied their chances of promotion to the post of principal.

3. On 14.6.2000, an order revising the seniority of the petitioners as Headmasters was made. The petitioners were given seniority from the back date

which according to the petitioners entitled them for promotion to the post of principal, whereas, the petitioners were not being considered as per their turn. They filed various representations and ultimately the present writ petition before this Court.

4. Notice was issued and reply is filed. Giving detailed history, it is conceded that in compliance with the judgment passed by this Court, the petitioners were promoted as Headmasters vide order dated 16.4.1991 (Annexure P-2). As per the reply, this order was subsequently substituted vide order dated 13.1.1992 (Annexure P-5). The petitioners, Mehar Chand and Gurdial Singh, being not satisfied with the order dated 13.1.1992, filed representations on 22.9.1998 (Annexure P-8 and P-9). Consequently on 14.8.2000, order (Annexure P-10) was passed re-fixing the seniority of the petitioners as Headmasters. It is then disclosed that this benefit was only given to the petitioners. Some other persons, who were also entitled to such benefit, namely Nafe Chand and sixteen others, belonging to scheduled caste category, filed Civil Writ Petition No. 3001 of 2002 praying for re-fixation of their seniority in the cadre of Headmaster. The said writ petition was disposed of on 18.2.2002 with the directions to the respondent to take a decision on the legal notice dated 15.11.2001. This necessitated the re-adjustment of the seniority of the petitioners as initially fixed. It is disclosed that the persons in the subsequent Civil Writ Petition (No. 3001 of 2002) were also required to be adjusted being from scheduled caste category and accordingly the entire seniority, which was earlier fixed, was needed to be re-fixed.

5. The petitioners felt aggrieved against this action of the respondent and accordingly filed another Writ Petition No. 16350 of 2003 before this Court seeking quashing of the order dated 24.7.2003 whereby the seniority of the petitioners in the cadre of Headmaster was re-fixed by changing the earlier orders dated 14.6.2000 and 31.7.2001. The said writ petition was disposed of by this Court on 19.12.2005 in the following terms:

The Learned Counsel for the petitioners at the outset states that various contentions raised by the petitioners in the reply to the show cause notice have not been considered by the respondents while passing the order dated July 23, 2003, Annexure P-10.

We have heard the Learned Counsel for the parties on the aforesaid question. We find merit in the contentions.

The present writ petition is disposed of with a direction to respondent No. 1 to reconsider the entire matter qua the points raised by the petitioners in their reply Annexure P-9.

Necessary speaking order shall be passed in this regard within a period of six months from the date a certified copy of this order is supplied to it.

6. State counsel, by referring to the facts as noted above, points out that in compliance to the directions of this Court dated 19.12.2005, the respondents

have now passed a speaking order and issued a fresh order on 27.10.2006. Copy of this order has been annexed with the reply as Annexure R-2. The submission is that the present writ petition filed by the petitioners is rendered infructuous and the petitioners would have to challenge the subsequent order passed during the pendency of this writ petition.

7. It is seen that this action has not been taken by the respondents suo moto but is in term of the directions issued by this Court. The petitioners can also not plead ignorance of the order refixing their seniority in terms of the order passed by this Court as they have challenged the same by filing another writ petition in the year 2003. Learned State counsel is justified in submitting that for getting effective relief the petitioners are required to challenge the order dated 27.10.2006, which has been passed during the pendency of the present writ petition. Since fresh cause has accrued to the petitioners during the pendency of the writ petition, it would be appropriate for them to challenge the same if they feel aggrieved against the said order. It may not otherwise be possible to grant any effective relief to the petitioners in the present writ petition. They had themselves filed earlier writ petition leading to directions for reconsidering their claim. After re-considering the claim, order dated 27.10.2006 (R-2) has been passed by the respondent-Government. It is thus apparent that the present writ petition filed by the petitioners is rendered infructuous. The petitioners, if so advised, may raise their grievance against the order dated 27.10.2006 passed during the pendency of the present writ petition.

8. With the above observations, the present writ petition is disposed of as infructuous.