
(2008) 02 P&H CK 0140
In the Punjab And Haryana At Chandigarh

Prem Singh

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 27-02-2008

Acts Referred:

Citation : (2010) 5 SLR 291

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—The petitioner, who has retired as Vice Principal, has filed this writ petition for direction to consider his name for promotion to the said post w.e.f.9.5.1985 when his junior Shri P.S.Bakshi was so promoted to the post of Vice Principal.

2. The facts, in brief, are that the petitioner was working against the post of Superintendent in Rural Artisan Training Centre, Sohna. He was placed under suspension w.e.f. 14.1.1974 as a criminal case was registered against him in the court of Judicial Magistrate, Hansi. The petitioner after trial was acquitted of all the cases alleged against him. However, the petitioner still remained under suspension and was not re-instated even during the pendency of the criminal appeal which was filed to impugn the order of his acquittal.

3. While the petitioner was still under suspension, the Rural Artisans Training Centre, Industrial Training and Handicrafts Schools and Industrial Training Centres in the State of Haryana were merged into Industrial Training Institutes. The staff of the training centres were also merged with Industrial Training Institute and the posts of Superintendents and that of Headmasters of the Industrial Training Institute were equated with the Group Instructors of the Industrial Training Institute. Accordingly, a common seniority list was issued on 15.1.1987. The names of Superintendents working in the Rural Artisans Training Centres were not shown in this seniority list.

4. Some of the persons filed a Civil Writ Petition No. 10318 of 1989 seeking direction for determining the seniority of the Superintendent of the Rural Artisan Training Centres in the combined seniority. The writ petition was allowed on 18.3.1991 with direction to decide the seniority and placement of the Superintendents working in Rural Artisans Training Centres. Further direction was also issued for giving consequential benefits after adjusting the seniority. Seniority list was accordingly issued on 1.4.1991 where the petitioner's name is shown at Sr. No. 16 whereas one P.S.Bakshi is shown at Sr. No. 20 of the said seniority list.

5. In May, 1985 the case of candidates was considered for promotion to the post of Vice Principal. The petitioner, however, was not considered for promotion being under suspension. Prithipal Singh Bakshi, who was junior to the petitioner, was, however, statedly promoted. It appears that this was only in officiating capacity. He allegedly worked, though on officiating basis, on the post of Vice Principal with break continuously since 8.5.1985. The petitioner ultimately was retired prematurely on 21.3.1989, while still under suspension on completion of 55 years age. He impugned the same by filing Civil Writ Petition No. 5242 of 1989 and was re-instated into the service w.e.f. 30.4.1992. The period of his suspension from 14.1.1974 to 29.4.1992 was treated as spent on duty. Ultimately the petitioner retired on superannuation w.e.f. 30.4.1992.

6. Concededly the petitioner stands promoted to the post of Vice Principal w.e.f. 9.3.1987. This order, Annexure P1, is made on 8.7.1993. The petitioner represented against the same on 12.9.1993 with the request that he be considered for promotion to the post of Vice Principal w.e.f. May, 1985 when his junior P.S.Bakshi was so promoted. When the respondents did not take any action on the representation of the petitioner, he served a legal notice in April, 1994, which also did not receive any response. This representation was ultimately rejected when the respondents were directed to decide the same by an order passed in Civil Writ Petition No. 7501 of 1994 in this regard. The grievance of the petitioner is that he is required to be promoted w.e.f. May, 1985 even though in officiating capacity when his junior was so promoted.

7. The respondent-State has filed reply disputing the claim of the petitioner. It is disclosed that Shri P.S.Bakshi, who was senior most in the I.T.I. Cadre was promoted as Vice Principal only for four months w.e.f. 9.5.1985. Subsequently he was reverted from the post of Vice Principal to that of a Group Instructor Incharge on 7.4.1986 on joining of the regular incumbent. Mr.P.S.Bakshi was again promoted as Vice Principal for a period of four months on adhoc basis on 4.6.1986. He joined his duties on 7.6.1986. At that time, the petitioner was belonging to the Rural Artisan Training Centre and was not working in the Industrial Training Institute Cadre in the year 1986. The decision to merge these cadres was taken by the State Government and was issued on 1.8.1990. It is, thus, clear that the claim of the petitioner for promotion from the date P.S.Bakshi was promoted actually would not arise. The petitioner is promoted w.e.f.

9.3.1987 from the date his next juniors, i.e., B.D.Chopra, M.L.Talwar and Bal Govind Sati were promoted. It is further disclosed that no promotion quota of Vice Principal was available on 4.6.1986 and P.S.Bakshi was only promoted on adhoc basis against the post of Principal. Since the petitioner at that time was not working in the Industrial Training Institute Cadre, his claim for promotion prior to P.S.Bakshi would not lie. Plea thus is that the petitioner is not entitled to claim the promotion w.e.f. 4.6.1986. Copy of the order promoting P.S.Bakshi on adhoc basis is annexed as Annexure R-1. It is on this premise submitted that no persons from Rural Artisan Training Centre and the Industrial Training Institute Cadre were promoted as Vice Principal earlier then 9.3.1987, the date the petitioner was granted this promotion.

8. Concededly the petition has already received all consequential benefits on account of his promotion to the post of Vice Principal w.e.f. 9.3.1987. The factual background as noted above would clearly show that the claim made by the petitioner for promotion w.e.f. 9.5.1985 is untenable and without basis. P.S.Bakshi was at the most promoted on adhoc basis as Vice Principal. It is seen that the merger of the cadre took place on 1.8.1990. Thus, on 4.6.1986 or 8.5.1985 the petitioner could not have been considered for promotion on adhoc or officiating basis. On these dates when P.S.Bakshi was promoted as Vice Principal on adhoc or officiating basis, the petitioner was not even born in the cadre. It would have been different matter if P.S.Bakshi has been granted a regular promotion on the basis of his seniority with effect from these dates, which may have entitled the petitioner to make a claim for promotion with effect from the said date. The seniority list was prepared subsequently. The petitioner has already been promoted with retrospective effect from 9.3.1987 when his juniors were so promoted on a regular basis.

9. The petitioner has received all the benefits with effect from the said date. His pension has also been accordingly fixed. There is no justification in the claim made by the petitioner for his promotion with effect from any earlier date, especially so when P.S.Bakshi was so promoted w.e.f. 9.5.1985 or 4.6.1986 on adhoc/officiating basis. I do not find any merit in the claim made by the petitioner. The writ petition is accordingly dismissed.