
(2013) 08 P&H CK 0959
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 804 of 1993

Raj Pal Singh Raghav

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 01-08-2013

Acts Referred:

Citation : (2014) 1 SCT 218

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Advocate : Ravi Verma, for the Appellant; Kshitij Sharma, AAG, Haryana for the Respondent No. 1 and 2-State, for the Respondent

Judgement

Rameshwar Singh Malik, J.—Feeling aggrieved against the alleged inaction on the part of the respondent authorities, petitioner has approached this Court by way of instant writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of Mandamus, directing the official respondents to promote the petitioner in the pay scale of Rs. 2,200-4,000 w.e.f. 24.1.1991 when his juniors were promoted. Brief facts of the case are that the petitioner joined as Teacher in the respondent department on 13.6.1955. Subsequently, he was promoted as officiating Headmaster vide order dated 7.10.1980 (Annexure P-1). The Provisional Gradation List was circulated, as it stood on 1.1.1985. Petitioner was at serial No. 91 of this Provisional List and extracted copy thereof is appended at Annexure P-2. It is further pleaded by the petitioner that respondent No. 1, vide order dated 24.1.1991 (Annexure P-3), promoted his juniors ignoring his better and preferential claim. Another similar promotion order came to be issued on 8.7.1992 (Annexure P-4), again ignoring better and preferential claim of the petitioner. Immediately thereafter, petitioner moved a representation dated 24.7.1992 (Annexure P-5), but no action thereon was taken. He again submitted another representation dated 13.10.1992 (Annexure P-6), but to no avail. Hence this writ petition.

2. Notice of motion was issued vide order dated 18.1.1993, but when reply was

not filed, the writ petition was admitted for regular hearing, vide order dated 29.3.1993. When the case came up for regular hearing on 22.2.2013, the case was adjourned to 26.3.2013, on the request of learned counsel for the State to seek instructions and also to file written statement, if any. When the case came up for hearing on 26.3.2013, learned counsel for the State was granted another opportunity to seek instructions and to file written statement, if any. However, no written statement was filed by the respondent department.

3. Learned counsel for the petitioner submits that the petitioner was at serial No. 91 of the Provisional Gradation List, Annexure P-2, whereas respondents No. 3 and 4 were at serial No. 112 and 147, thus, far junior to the petitioner. Respondents No. 3 and 4 came to be granted substantive promotion, vide orders dated 24.1.1991 (Annexure P-3) and 8.7.1992 (Annexure P-4), respectively. He further submits that in the interregnum, respondents No. 3 and 4 as well as the petitioner also stood retired from their services, after reaching the age of superannuation. He next contended that no reason, whatsoever, has been assigned as to why the petitioner was not considered for promotion, despite the fact that his juniors were promoted. He prays for allowing the writ petition, directing the respondent authorities to grant substantive promotion to the petitioner in the pay scale of Rs. 2,200-4,000/- w.e.f. 24.1.1991, when his juniors were promoted.

4. On the other hand, learned counsel for the State rightly expressed his inability to controvert the allegations of the petitioner for the reason that the respondent department never took any interest during these long 20 years either to file any written statement or provide any assistance to the learned counsel for the State. The casual approach adopted by the respondent department speaks volumes about its working. However, this Court refrains itself from making any further comments in this regard.

5. Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that the present writ petition deserves to be allowed. To say so, reasons are more than one, which are being recorded hereinafter.

6. It is a matter of record that the categoric averments taken by the petitioner have gone un rebutted, because no written statement has been filed on behalf of respondent department during all these long 20 years. Even after this case was taken up for regular hearing on 22.2.2013 and 26.3.2013, two more opportunities were granted to the respondent State to file its reply, but neither any written statement has been filed, nor anybody from the office of respondents No. 1 and 2 came to attend the Court proceedings, so as to instruct and assist the learned counsel for the State, about the latest factual aspect of the matter. Having said that, this Court feels no hesitation to conclude that the petitioner is entitled for substantive promotion from the date his juniors were promoted, i.e. 24.1.1991.

No other argument was raised.

7. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered opinion that the instant writ petition deserves to be accepted and the same is hereby allowed. Consequently, respondents No. 1 and 2 are directed to look into the matter, consider the grievance of the petitioner for his substantive promotion w.e.f. 24.1.1991 in the pay scale of Rs. 2200-4000/-, when his juniors were promoted vide order dated 24.1.1991 (Annexure P-3). The petitioner shall be entitled for all the consequential benefits, including arrears of salary, revision of pension, leave encashment etc. Let this exercise be completed by respondents No. 1 and 2 within a period of three months from the date of receipt of a certified copy of this order.

Resultantly, in view of the observations made and directions issued here-in-above, the present writ petition stands allowed, however, with no order as to costs.