
(2020) 02 J&K CK 0063

In the Jammu And Kashmir High Court

Case No : Service Writ Petition No. 1662 Of 2015, IA No. 1 Of 2015, 1 Of 2018

Subash Chander

APPELLANT

Vs

State Of J&K And Others

RESPONDENT

Date of Decision : 25-02-2020

Acts Referred:

Citation : (2020) 02 J&K CK 0063

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : J. P. Sharma, Aseem Sawhney

Final Decision : Disposed Of

Judgement

1. The petitioner, who joined the Department of School Education as Teacher, was subsequently promoted as Master in the same Department vide

Order No. DSEJ/ANG/Prom/3316-22 dated 11.08.2003 whereas the private respondent No. 5, namely, Harbans Lal, was also so promoted vide

Order No. DSEJ/ANG/Prom/3445 dated 23.08.2003. In that view of the matter, the petitioner was admittedly senior to the private respondent No. 5

and, therefore, being M.Sc in Mathematics had a superior right of promotion to the post of Lecturer in the School Education Department.

2. It is the grievance of the petitioner that though he was also promoted as Lecturer in the School Education Department in Mathematics along with

private respondent No. 5, in terms of Order No. 236-Edu of 2013 dated 07.03.2013 but his promotion was given effect from 18th July, 2008 and was

placed at serial No. 112 of the aforesaid Govt. Order.

3. It is further submitted that the private respondent No. 5 was wrongfully placed at serial No. 14 of the said order and was given promotion notionally

w.e.f. 08.07.2005 and on regular basis w.e.f. 18.07.2008.

4. It is, thus, urged that the petitioner being senior to private respondent No. 4 was also entitled to promotion notionally w.e.f. 08.07.2005. The

petitioner was promoted as Master on 11.08.2003, whereas private respondent No. 5 was promoted as such on 23.08.2003 which clear indicates that

the petitioner was admittedly senior than the respondent No. 5 in cadre of Master and was also possessing M.Sc. in Mathematics, the requisite

qualification provided for the post.

5. Official respondents have been given ample opportunities to file their objections, but they have chosen not to file the same. Mr. Aseem Sawhney,

learned AAG, prayed for further opportunity to file objections but same was declined.

6. Having heard learned counsel for the parties and perused the record, I am of the view that the petitioner is entitled to be treated at par with the

private respondent No. 5, who, as per the documentary evidence placed on record by the petitioner, is admittedly junior to the petitioner in the cadre of

Master. As noted above, the petitioner was promoted as Master on 11th July, 2003 in terms of Order issued vide Director School of Education vide

order No. DSEJ/ANG/Prom/3316-22 dated 11.08.2003 whereas, the private respondent No. 5 was so prompted on 23.08.2003. If that being the

position, then there was no justification with the official respondents to grant promotion to the private respondent No. 5 as Lecturer in School

Education in Mathematics notionally w.e.f. 07.07.2005 and on regular basis w.e.f. 18.07.2008 and denying the similar benefit to the petitioner.

7. Learned counsel for the petitioner states that the petitioner has been superannuated w.e.f. 30.09.2019 and, therefore, is not in service.

8. In view of the foregoing, this petition is allowed. The Director School Education is directed to treat the petitioner as having been promoted as

Lecturer in Mathematics in the School Education Department notionally w.e.f. 08.07.2005 and on regular basis w.e.f. 18.07.2008 as has been done by

it, in the case of the junior to the petitioner i.e. private respondent No. 5, in terms of Govt. Order No. 236-Edu of 2013 dated 07.03.2013. Official

respondents shall do well to pass an appropriate order regularizing the petitioner as Lecturer in Mathematics in School Education notionally we.e.f

08.07.2005 notionally and give him the benefit of re-fixation of salary,

accordingly within a period of two months from the date of receipt of a certified copy of this order.

9. Disposed of, accordingly.