

(2019) 12 J&K CK 0056

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1299 Of 2013, CM No. 1, 1728 Of 2019

Subash Chander Sharma

APPELLANT

Vs

State Of Jammu & Kashmir And Others

RESPONDENT

Date of Decision : 20-12-2019

Acts Referred:

Citation : (2019) 12 J&K CK 0056

Hon'ble Judges : Sindhu Sharma, J

Bench : Single Bench

Advocate : Prem Nath Sadotra, Aseem Sawhney, Abhimanyu Sharma

Final Decision : Disposed Of

Judgement

Sindhu Sharma, J

1. Petitioner has approached this court seeking the following reliefs:-

a) Mandamus directing and commanding the respondent to promote the petitioner as Lecturer in Commerce notionally from 09.11.1995 and regularize the petitioner from 29.02.2004 in the discipline of Commerce.

b) Mandamus commanding and directing the respondents to grant the monetary benefits to the petitioner attached to the post of lecturers from the date his juniors have been promoted.

2. Briefly stated the facts of the case are that the petitioner was appointed as teacher in the Education Department on 05.09.1985 and was adjusted as Incharge Lecturers in the discipline of Commerce vide Government order No. 218 Edu of 2004 dated 29.02.2004. Respondent Nos. 4 to 6 were also appointed as teachers on 26.08.1986 and adjusted alongwith petitioner as Incharge Lecturer on 29.02.2004. They, figured at serial Nos. 20, 21 and 22 of the list of Incharge Lecturers whereas petitioner was figured at S. No. 16.

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3. The services of respondent Nos. 4 to 6 were regularized as Lecturers in Commerce vide Government order dated 846-Edu of 2012 dated 16.11.2012, notionally from 09.11.1995.

4. Respondent No. 1 vide order No. 234-Edu of 2013 dated 07.03.2013 regularized the service of the petitioner w.e.f 08.07.2005. Thus, despite the fact that the petitioner was appointed earlier to the private respondents, his services to the post of Lecturer were not regularized from the date his juniors services were regularized i.e. from 29.02.2004. The petitioner, thus, made a representation to the respondents to consider his regularization i.e. from 29.02.2004 as well as to give him notional benefits from the date his juniors i.e private respondents were given i.e. 09.11.1995. But the respondents have not acceded to his request.

5. In their reply, respondents admit that the petitioner has acquired his PG in 1991, and is senior to the private respondents, as such, he was eligible for regularization with effect from 09.11.1995. However, it is submitted that Government has constituted a Committee to consider the case of regularization of officer (backlog and fresh) in School Education Department in respect of each of the category as one time exception.

6. Admittedly the petitioner is senior to private respondents and was appointed as Incharge Lecturer on the same date and became entitled for regularization of his services as well as to receive the same benefits as has been done in the cases of his juniors. This however, was denied to him, therefore, he was constrained to approach this court for the relief. The respondents after having admitted his averments have not granted him the same till date presumably that committee constituted for the same would do it, but till date no such consideration as has been done.

7. In view of the aforesaid facts and circumstances, this petition is allowed. Respondents are directed to promote the petitioner to the post of Lecturer and give him benefits notionally with effect from 09.11.1995 and regularize his services with effect from 29.02.2004 with all consequential benefits. Let this exercise be done within a period of six weeks from the date a copy of this order is served upon the respondents by the petitioner.

8. Disposed of accordingly.