

(2024) 09 SHI CK 0043

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 5095 Of 2021

Subhash Chand

APPELLANT

Vs

State Of HP & Others

RESPONDENT

Date of Decision : 06-09-2024

Acts Referred:

Citation : (2024) 09 SHI CK 0043

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Vivek Singh Attri, Sumit Sharma

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this petition, the petitioner has, inter alia, prayed for the following reliefs:-

"i) To direct the respondents to promote the petitioner retrospectively to the post of CHT from the post of Head Teacher from the date when his juniors were promoted to the post of CHT.

ii) To direct the respondents to re-arrange the seniority of the petitioner in the seniority list and place him above his juniors."

2. The case of the petitioner is that he was initially appointed as a JBT Teacher in Government Primary School Shoubag, District Sirmour, H.P., in the year 1995. In terms of the seniority list of JBT Teachers Annexure P-1, the seniority number of the petitioner was 1413, as reflected against Sr. No. 373. Thereafter, on 20.07.2001, another tentative seniority list was issued, vide Annexure P-2, in terms whereof the name of the petitioner was reflected at Sr. no. 1412.

3. The grievance of the petitioner is that in the year 2019, persons junior to him were promoted as CHTs, whereas, he was ignored. He made representations in

this regard and as despite his representations, the injustice done to the petitioner was not meted out by the respondents, hence the writ petition.

4. Learned Counsel for the petitioner has drawn the attention of the Court to the pleadings as well as documents appended with the petition and submitted that incumbents who were initially shown junior to the petitioner in the seniority list, were promoted to the post of Central Head Teacher in terms of Annexure P-8 (colly) dated 20.11.2019/04.12.2019, whereas the petitioner was ignored. He submitted that the act of the respondent-Department of promoting incumbents junior to the petitioner, against the post of Central Head Teacher and ignoring the petitioner is per se bad in law. Accordingly, he submitted that the petition be allowed and the respondents be directed to confer promotion to the petitioner against the post of CHT, as from the date when persons junior to him were promoted.

5. On the other hand, learned Additional Advocate General, by referring to the stand of the respondents, has submitted that the seniority lists in which the incumbents, who were promoted in the year 2019 and reflected junior to the petitioner, were erroneously prepared and said seniority lists were subsequently corrected. He further submitted that after correction of the anomalies that were found in the 2002 lists, a tentative seniority list of JBT Teachers was issued on 24. 09.2005, as is evident from the final seniority list issued on 16. 03.2006, which is on record. He further submitted that no objections thereto, were preferred by the petitioner and thereafter, the final seniority list was issued on 16.03.2006, in which the incumbents, who were promoted as CHTs in the year 2019, were admittedly senior to the petitioner. He stated that in the absence of any challenge to the seniority list issued on 16.03.2006, the petitioner cannot be allowed to assail the promotions of persons, who were promoted in the year 2019, as admittedly, they were not junior to the petitioner, as alleged by him.

6. I have learned Counsel for the parties and also carefully gone through the pleadings as well as documents appended therewith.

7. It is not in dispute that in terms of the seniority list that was issued in the year 2002, certain incumbents who were promoted in the year 2019, were shown junior to the petitioner therein. However, it is a matter of record that thereafter a tentative seniority list of JBT Teachers was issued on 24. 09.2005, which has culminated into the issuance of final seniority list dated 16.03.2006 and in terms of this final seniority list, incumbents who were promoted in the year 2019, were reflected senior to the petitioner. It is also a matter of record that no objections were filed to the tentative seniority list issued on 24.09.2005, by the petitioner. That being the case, he otherwise was precluded from assailing the final seniority list issued on 16.03.2006, but fact of the matter remains that otherwise also, he did not challenge the final seniority list issued on 16.03.2006. Another important aspect of the matter is that record demonstrates that after the issuance of final seniority list of 2006, certain promotions were carried out in the year 2008 itself, as is evident from paragraph No.3 of the preliminary submissions of the reply,

filed by respondents No.1 to 3 and said promotions were also not assailed by the petitioner.

8. Therefore, in the light of the fact that the promotions of CHTs, as were effected in the year 2019, were based on the seniority of the incumbents, in terms of final seniority list issued on 16.03.2006, in which admittedly they were placed above the petitioner and as said final seniority list has attained finality, as no challenge thereto, was made by the petitioner, he cannot be allowed to claim promotion from the dates when incumbents allegedly junior to him were promoted as Central Head Teachers, because no incumbent who was junior to the petitioner, in fact, was promoted as CHT in the year 2019.

9. In view of the above discussion, this writ petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.