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Designation of Post Qualification and Experience Required for Vs. the State of Punjab and Another

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Court : Punjab and Haryana

Decided On : Sep-13-2013

Appellant : Designation of Post Qualification and Experience Required for

Respondent : The State of Punjab and Another

Judgement :

CWP No.16819 o

1. IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CWP No.16819 of 1989 (O&M) Date of decision : September 13, 2013.

Smt.

Surjit Kaur .....Petitioner Versus The State of Punjab and another .....Respondents CORAM : HON'BLE MR.JUSTICE L.N.MITTAL Present : Mr.Sandeep Goyal, Advocate for the petitioner.

Ms.Puneet Kaur Sekhon, Addl.

A.G.Punjab for the respondents.

L.N.MITTAL, J.

(Oral) Petitioner Smt.

Surjit Kaur belonging to Scheduled Caste was initially appointed as a Social Studies Mistress in the grade of ` 110-250/- w.e.f.15.09.1962.

Thereafter she was selected as Senior Mistress by the Punjab Public Service Commission and was appointed as such in the grade of ` 250-300/- with effect from 4.08.1966.

According to respondents, she became eligible for promotion as Headmistress on completion of eight years service i.e.with effect from 15.09.1970.

Accordingly, she was offered promotion as Head Mistress vide order dated 25.11.1970.

However, she did not avail of the said promotion being on deputation in Union Territory, Chandigarh.

Accordingly she stood barred for two years for promotion.

Same thing was repeated when she was again promoted as Head Mistress vide order dated 13.12.1972.

Thereafter, on availability of posts of Headmistress in promotion quota, the petitioner was promoted vide order dated 1.10.1980 in absentia.

The petitioner filed CWP No.5887 Manot Kumar 2013.09.17 11:50 I attest to the accuracy and integrity of this document CWP No.16819 o

2. of 1989 claiming seniority from the date her junior.

Smt.

Vimla Kumari Kaushal was promoted as Head Mistress.

The petitioner also claimed benefit of reservation as enjoyed by Smt.

Vidya Vati.

The said writ petition was disposed of by this Court vide order dated 3.05.1989 directing the respondents to decide the matter by speaking order.

Accordingly, respondent No.2-The Director of Public Instructions, (Schools).Punjab vide order dated 20.10.1989 (Annexure P-7) held that the petitioner is not entitled to retrospective promotion as Headmistress.

Feeling aggrieved, petitioner has filed this writ petition under Article 226 of the Constitution of India assailing order Annexure-P7 and seeking writ of mandamus directing the respondents to re-determine the date of promotion of the petitioner and to grant her retrospective promotion by also taking into consideration the reservation policy.

Respondents by filing written statement, while admitting factual position, controverted the other averments of the petitioner and defended the impugned order Annexure-P7.

I have heard learned counsel for the parties and perused the case file very carefully.

Perusal of impugned order Annexure P-7 reveals that Smt.

Vidya Vati had joined as Mathematics Teacher w.e.f.1.08.1963.

However, she was not appointed as Headmistress by promotion.

On the contrary, she was appointed as Headmistress by direct recruitment on selection by Punjab Public Service Commission and accordingly she joined as Head Mistress on 7.03.1974 as a direct recruit.

The petitioner cannot claim any benefit for promotion retrospectively with reference to appointment of Smt.

Vidya Vati as Headmistress as direct recruit because the petitioner is claiming appointment as Headmistress Manot Kumar 2013.09.17 11:50 I attest to the accuracy and integrity of this document CWP No.16819 o

3. by promotion.

Besides it, appointment of Smt.

Vidya Vati as Headmistress does not help the petitioner in any manner inasmuch as Smt.

Vidya Vati joined as Headmistress on 7.03.1974, whereas the petitioner was being promoted as Headmistress much prior to it vide order dated 25.11.1970 but the petitioner herself did not accept the said promotion.

As regards claim of petitioner for promotion with effect from the date her junior Smt.

Vimla Kumari Kaushal was promoted as Headmistress, the said claim of the petitioner also cannot be accepted.

Smt.

Vimla Kumari Kaushal was appointed as Social Studies Mistress with effect from 7.01.1956.

She was appointed as Headmistress in the year 1969 by promotion on her turn on completing eligibility criteria of promotion of eight years teaching experience.

However, when Smt.

Vimla Kumari Kaushal was promoted as Headmistress in the year 1969, the petitioner was not eligible for promotion as Headmistress having not completed eight years of teaching experience (having been initially appointed on 15.09.1962) and consequently the petitioner was then not eligible for promotion.

Counsel for the petitioner referred to Appendix-B of the Punjab Educational Service (Provincialized Cadre) Class-III School Cadre Rules, 1955 (in short the 'Rules').The relevant part thereof, is extracted herein below:- Designation of post Qualification and experience required for appointment to the post Headmaster/Headm B.A./B.Sc., M.A./M.Sc., S.S.T.C.Or B.T.Senior istress Basic

Trained, with atleast three years service in the selection grade of ` 250-300/- or 8 years total service in the A.V.Cadre.

Counsel for the petitioner contended that the petitioner had joined as Senior Mistress on 4.08.1966 in the grade of ` 250-300/- Manot Kumar 2013.09.17 11:50 I attest to the accuracy and integrity of this document CWP No.16819 o

4. and therefore she fulfilled the criteria of three years service in the said grade in the year 1969 when Smt.

Vimla Kumari Kaushal was promoted as Headmistress and therefore the petitioner should be granted the said benefit.

The contention cannot be accepted because the petitioner joined as Senior Mistress in the grade of ` 250-300/- w.e.f.4.08.1966.

Consequently, the said grade was her entry scale and not selection grade.

Requirement of Appendix-B mentioned above was three years service in selection grade of ` 250-300/-.

Consequently service of petitioner in the said grade as Senior Mistress by direct recruitment was not service in the selection grade but was her service in entry grade of ` 250-300/-.

Consequently on the basis thereof, she was not eligible for promotion as Headmistress in the year 1969.

On the other hand, Appendix-B also stipulates alternative qualification of eight years total service for promotion as Headmistress which the petitioner did not fulfil in the year 1969.

She gained experience of eight years of total service on 14.09.1970 and immediately, thereafter she was offered promotion vide order dated 25.11.1970.

For the reasons recorded, I find the petitioner is not entitled to retrospective promotion as claimed by her.

The impugned order Annexure P-7 passed by respondent No.2 does not suffer from any illegality or error so as to call for interference by this Court in exercise of extraordinary writ jurisdiction under Article 226 of the Constitution of India.

The writ petition is devoid of merit and is accordingly dismissed.

September 13, 2013 (L.N.Mittal) Manot Bhutani Judge Manot Kumar 2013.09.17 11:50 I attest to the accuracy and integrity of this document

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