

STATE OF PUNJAB AND ANR.

A

v.

TEJA SINGH AND ORS.

JANUARY 17, 2007

[S.B. SINHA AND MARKANDEY KATJU, JJ.]

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Service law:

Lien-Promotion of respondents to the post of lecturer—Provisionally posted as Headmasters—Denied promotion to the post of Principal on the premise of having lost lien on the post of lecturer—Held: Respondents were promoted on provisional basis—Hence have not lost their lien—Not to be denied promotion to the post of Principal.

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The respondents were appointed as Masters in the Education Department. As they possessed Master degree, they were promoted to the post of Lecturer. In 1974, they were temporarily posted as headmasters at their own pay. The respondents were denied the promotion to the post of Principal, Grade II on the premise that they, having been promoted to the post of Headmaster, lost their lien on the post of Lecturer.

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They successfully filed writ petitions before the High Court. Hence these appeals.

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Dismissing the appeals, the Court

HELD: The Respondents were promoted on provisional basis. It cannot, therefore, be said that they lost their lien. Even the Cadre Controlling Authority could not have changed their cadre without their consent. Even otherwise having regard to the fact that they were provisionally promoted to the post of Head master long before the rules came into force, in absence of any express provision contained therein or any option sought for, from the respondents, they could not have been denied the benefit of promotion to the post of Principal, Grade II. If such a contention is upheld, the same would result in an absurdity. Rules must be considered in a reasonable and pragmatic manner. [Para 8] [1107-D-F]

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 6401-6407 of 2000.

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A From the Judgments and Final Orders dated 10.7.2000 and 12.7.2000 of the High Court of Punjab and Haryana at Chandigarh in L.P.A. Nos. 800/2000 in C.W.P. No. 12829/1995, 819-824/2000 in C.W.P. Nos. 10327, 7213/1995, 18164/1994, 9426, 7719 and 960/1995 respectively

B D.P. Singh, Shashank Moona and Arun K. Sinha for the Appellants.

Manoj Swarup, Atulesh Kr. Anant, S.C. Paul, Roopa Paul, Mohinder Singh, Rekha Pandey and Subhash Sharma for the Respondents.

The Judgment of the Court was delivered by

C **S.B. SINHA, J. :** 1. The State of Punjab is before us aggrieved by and dissatisfied with the judgment and order dated 10.7.2000 in LPA No. 800/2000 passed by a Division Bench of the High Court of Punjab and Haryana dismissing the LPA arising from the judgment and order of a learned Single Judge of the said Court in writ petitions filed by the respondents herein, **D** opining that their cases should be considered for promotion to the post of Principal, Grade II.

2. The basic fact of the matter is not in dispute. Respondents were appointed as Masters in the Education Department of the State of Punjab. As they possessed Master degree, they were promoted to the post of **E** Lecturer. In or about 1974, they were temporarily posted as headmasters. A sample copy of the order of such posting is in the following terms :

F “The following Masters/Lecturers are hereby provisionally posted at their own pay and grade on the post of Headmasters. (P.E.S. III) Non Gazetted Men Branch. These postings are purely temporary and all are subject to the conditions noted below :

xxx

xxx

xxx

G 3. They continued to work on the post of Headmaster till about 1978. However, rules were framed in terms whereof the posts of Principal, Grade II were to be filled up by way of promotion as also by direct recruit in the ratio of 75 : 25.

H 4. It is stated that the State had issued a circular on or about 24th January, 1977 laying down the ratio of 60 : 40 for filling up the posts of Headmaster/Lecturer. The respondents were denied the promotion to the

post of Principal, Grade II by an order dated 15.7.1995, *inter alia* on the premise that they, having been promoted to the post of Headmaster, lost their lien on the post of Lecturer.

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5. Writ petitions filed by the respondents have been allowed as noticed hereinbefore. Letter Patent Appeals filed by the State of Punjab thereagainst were dismissed.

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6. The contention of the learned counsel for the appellants is that in view of the rules aforementioned the High Court could not have passed the impugned judgment.

7. It is not in dispute that similar question came up for consideration before Punjab and Haryana High Court in Civil Writ Petition No. 2441/1982 and Civil Writ Petition No. 4918/1996, wherein a similar contention raised by the State had been rejected.

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8. The learned Single Judge of the High Court had followed the aforementioned decision. We do not find any reason to differ therewith. Respondents were promoted on provisional basis. It cannot, therefore, be said that they lost their lien. Even the Cadre Controlling Authority could not have changed their cadre without their consent. Even otherwise having regard to the fact that they were provisionally promoted to the post of Principal long before the rules came into force, in absence of any express provision contained therein or any option sought for from the respondents, they could not have been denied the benefit of promotion to the post of Principal, Grade II. If such a contention is upheld, in our opinion, the same would result in an absurdity. All rules as is well known must be considered in a reasonable and pragmatic manner. The respondents having been promoted to the post of Headmaster, which was permissible at the relevant time, cannot be denied the benefit of promotion to the post of Principal, Grade II, although they held the post of Lecturer. Even otherwise, in our opinion, denial of said benefit to the respondents would be unjust in law. For the reasons aforementioned, there is no merit in these appeals which are dismissed accordingly. No costs.

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Appeals dismissed.