

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO. 060/00163/2017

Chandigarh, this the 9th day of July , 2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

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1. Inder Mohan Kaur w/o S. Sukhvinder Singh, age 57 years, working as Officiating Principal, Government Model Senior Secondary School, Sarangpur, Chandigarh.
2. Rakesh Sood s/o Sh. Premnath Sood, age 57 years, working as Officiating Principal, Government Model Senior Secondary School, Sector 28-D, Chandigarh.
3. Satpal Singh s/o Sh. Punnu Ram, aged 58 years, working as Headmaster at High School, Sector-11/A, Chandigarh.
4. Rajesh Kumar Ranchan s/o Sh. Baldev Sahai, aged 57 years, working as Headmaster at Government Model High School, Sector-29-A, Chandigarh.
5. Rajesh Kumar s/o Sh. Pyara Lal Sharma, aged 57 years, working as Headmaster at Government Model High School, Sector-38 (West), Chandigarh.
6. Nirmal Singh s/o S. Charan Singh, aged 57 years, working as Headmaster at Government Model High School, Sector-38-B, Chandigarh.

....APPLICANTS

(Argued by: Shri K.B. Sharma, Advocate)

VERSUS

1. Chandigarh Administration through Advisor to the Administrator, Punjab Raj Bhawan, Sector-6, Chandigarh.
2. The Education Secretary, Chandigarh Administration, U.T. Secretariat, Sector-9, Chandigarh.
3. The Director School Education, Chandigarh Administration, U.T. Secretariat, Sector-9, Chandigarh.

....RESPONDENTS

(By Advocate: Shri Arvind Moudgil)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

The present Original Application (O.A.) has been filed by the applicants seeking issuance of a direction to respondents to convene the meeting of DPC in a time bound manner for promotion to the posts of Principals of Senior Secondary Schools and consider and promote the applicants under 30% quota meant for Head Masters/Mistresses.

2. Facts are not in dispute.

3. The applicants initially joined the Chandigarh Administration on the post of Masters/Mistress between 1979 to 1981. Initially they were given charge of the post of Head Mistress/Masters on officiating basis and subsequently they were regularly promoted in the year 2009, 2011 and 2012. The applicants no. 1 & 2 are presently working on the posts of Principals on officiating basis. The next channel of promotion available to the applicants from the post of Headmaster/Headmistress (School Cadre) is to the post of Principals. There is no rules governing the service conditions of the applicants, therefore, they are governed under the rules applicable in the state of Punjab for corresponding posts i.e. the Punjab Educational Service (School and Inspection) Group A Service Rules, 2004 (hereinafter referred to as ' 2004 Rules'.

4. Learned counsel appearing on behalf of applicants submitted that by virtue of notification dated 13.1.1992 (Annexure A-9) issued

by Govt. of India, where Chandigarh Administration have no rule governing service conditions of its employees, the rules applicable for the corresponding posts in the state of Punjab are applicable. Therefore, he submitted that based upon 2004 Rules the applicants have a right for promotion to the posts of Principals. They have submitted various representations but the same have not been answered by the respondents. Hence this O.A.

5. In support of the prayer the learned counsel for applicants submitted that in the similar circumstances where there was no rule governing the service conditions of employees, the applicants in O.A. NO. 437-CH-2009- Ramnik Kaur Lecturer & Ors. Vs. The Advisor to the Administrator, Chandigarh Administration had prayed to apply Rules applicable in State of Punjab to the corresponding posts in U.T. Chandigarh. This Tribunal vide order dated 8.3.2010 while allowing the O.A. directed the respondents to apply corresponding Rules applicable in State of Punjab for grant of benefit in U.T. Chandigarh. Therefore, he submitted that since the issue in the instant O.A. is identical to that involved and decided in the indicated O.A. therefore similar direction be issued to consider and promote the applicants, if they are otherwise found eligible in terms of 2004 Rules of Punjab Govt.

6. Respondents have filed written statement wherein they have admitted that they have no Rules and Punjab Rules would apply. They have, however, spelt out the reasons in para 7 which reads as under:-

“7. That to deliberate on the above issue, a Committee was formed and the committee was of the view that

“Punjab is a very big State and there are large number of schools and obviously the cadre of Lecturer and Headmasters is also bigger as compared to Chandigarh. So be more precise on the issue, it is suggested that a letter may be written to the Punjab Govt. to know the cadre strength of Head Masters/Mistresses, Lecturers & Vocational Lecturers and criteria of giving 30% posts to the head masters/mistresses and 15 % to the vocational lecturers for promotion as Principal”, copy of which is annexed as Annexure R-1. Accordingly, for the above clarification, a letter to the Director Public instructions (schools) Punjab has been written on DSE-UT-S1-11 (2)) 2003 PF dated 6.4.2017, copy of which is annexed as Annexure R-2”.

The learned counsel for respondents argued on similar lines.

7. We have heard the learned counsel for the parties and perused the pleadings available on record.

8. Considering the precise issue involved in the instant O.A. we may note here that in terms of notification dated 13.1.1992 issued by Govt. of India, qua Chandigarh Administration, where there are no Rules governing the service conditions of employees of Chandigarh Administration, then the Rules as applicable to the employees of State of Punjab for corresponding posts would apply. This issue has also been considered by the Hon'ble Supreme Court in the case of **Union Territory of Chandigarh and Ors. Vs. Rajesh Kumar Basandhi and Anr.** reported in 2004 (1) SCSLJ 333. Thus, it can safely be held that in the absence of own Rules of Chandigarh Administration for its employees, the rules of Punjab Govt. will apply.

9. In the above backdrop of the matter, since the respondents have no their own Rules, then they are bound to adopt and follow the Rules as applicable to the corresponding categories of the posts in Punjab i.e. for the posts of Principals in question. Perusal

of letter dated 6.4.2017 addressed to the Director School Education, State of Punjab, asking for some information also suggests that they do not have their own Rules.

10. In the light of above, we are left with no option but to allow this O.A. and direct the respondents to consider the claim of the applicants in the light of 2004 Rules of Punjab Govt. and if the applicants are found fit and eligible in terms of eligibility, then they be given promotion, otherwise a reasoned and speaking order be passed .

11. Let the above exercise be completed within 2 months from the date of receipt of a certified copy of this order. No costs.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 09.07.2018

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