

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 8110 OF 2011

Manoj Kumar Jindal

...Appellant

Versus

Rajni Mahajan & Ors.

...Respondent(s)

J U D G M E N T

Rajesh Bindal, J.

1. The order passed by the Division Bench of the High Court of Punjab & Haryana upholding the order passed by the Single Bench is under challenge before this Court. It is a case in which the appellant as well as the respondent No.1 are serving in Department of Technical Education and Industrial Training, Punjab. The root cause of the litigation was an order dated 08.11.2007 *vide* which the respondent No.1 was reverted from the post of senior lecturer to that of

lecturer. The Single Bench of the High Court set aside that order. The same was upheld in intra-court appeal before the Division Bench.

2. The respondent No.1 was promoted as senior lecturer *vide* Memo dated 16.05.2007. A notice dated 09.09.2007 was served upon the respondent No.1 to show-cause as to why she should not be reverted back to the post of lecturer. An interim reply was furnished by her on 17.09.2007, seeking liberty to furnish detailed reply after getting copies of the relevant documents.

3. Without affording her opportunity to file a detailed reply, *vide* impugned order, she was ordered to be reverted to the post of lecturer. The respondent No.1 as well as the appellant were working as lecturers. The respondent No.1 was senior to the appellant. The post of senior lecturer became available on 31.05.2006. A meeting of Departmental Promotion Committee (DPC) was held on 15.03.2007 wherein the respondent No.1 was recommended to be given promotion. She joined as senior lecturer on 17.03.2007. A notice was served upon her to show-cause as to why she

should not be reversed back to the post of lecturer *vide* order dated 08.11.2007. Her order of promotion was withdrawn. It is the aforesaid said order, which was impugned before the High Court. The reason for reversion was that she did not have requisite benchmark at the time when the vacancy became available. However, there is no dispute that when the candidates were considered for promotion and the DPC held on 15.03.2007, the respondent No.1 was having the requisite benchmark and was recommended to be promoted. The learned Single Bench opined that the ACRs for five years preceding the date of consideration for promotion were to be taken into account and not from the date of accrual of the vacancy.

4. Though, the contention sought to be raised by learned counsel for the appellant was that it is a case of *malafide* as the DPC was postponed on the intervention of the then Deputy Chief Minister. No doubt such a stand is available in the written statement filed by the official respondents as well as the present appellant. However, the fact remains that the appellant as such had not alleged any *malafide*. All what was placed before the Court by the official respondents

was the material in terms of the official record. With reference to the aforesaid fact, what is available on record is that on a representation made by the respondent No.1 to the then Deputy Chief Minister, he directed that the DPC be held after receipt of the ACR for the immediately preceding year. When the vacancy arose on 31.05.2006, the respondent No.1 requested that the ACR for the year 2005-06 should also be part of the record before the DPC when the matter regarding promotion is considered.

5. We are not finally opining on the issue as to whether the DPC should have been postponed or not; the ACRs only up to the year the vacancy arose should have been considered or it should be up to the date of holding of DPC. But the fact remains that the respondent no.1 was promoted way back in the year 2007. More than 15 years have elapsed. She was otherwise also senior to the appellant in the cadre of lecturers and there may have been further promotions of both the parties as well as in the department where they are working. Any order passed at this stage may affect number of persons and further may result in unsettling many positions which have already settled with

the lapse of time. Hence, we do not find that a case is made for interference by this Court.

6. The present appeal is, accordingly, dismissed.

.....J.
[Abhay S. Oka]

.....J.
[Rajesh Bindal]

New Delhi
14.03.2023