

**HARYANA GOVERNMENT
SCHOOL EDUCATION DEPARTMENT
ORDER**

ORDER NO. 6/21-2021 HRG-I(1)/2

DATED PANCHKULA, THE 09/11/2021

Whereas, Sh. Om Parkash [051061] and Shri Rameshwar [051057], Principals have filed the present writ petition No. 2755 of 2021 with the prayer to grant of promotion w.e.f. from the date their juniors were promoted as Principals and to consider them for promotion as Block Education Officer by placing them above in the seniority of principals.

That the present case came up for the hearing before this Hon'ble Court on 09.02.2021 and passed the following order:

"The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner No.1 and 2 claim to have been appointed as lecturers on 24.10.1991 and 29.10.1991, respectively. In 2012, they were promoted as school Principals. It is claimed that juniors to the writ petitioners were also promoted. On 08.07.2019, the seniority list of lecturers was issued and the petitioners were depicted seniors to their juniors who were also promoted. Even in the seniority list issued for the cadre of Principals, the petitioners were placed seniors to the said juniors. The petitioners through the present writ petition pray that they are entitled to be considered for promotion to the post of Principal with effect from the date their juniors were promoted to the post of Principal. It has also been brought to the notice of the Court that various writ petitions have been filed in this Court for identical relief. Once such writ petition is disposed of, the officials grant them the benefit of antedated promotion. He contends that the petitioners are identically situated.

Notice of motion.

On the request of this Court, Mr. Samarth Sagar, Additional Advocate General, Haryana, accepts notice and prays for time to file reply.

Respondent No.2 is directed to file an affidavit as to why all the identically situated employees are being compelled to file writ petitions.

List on 13.05.2021."

In compliance of the directions of the Hon'ble Punjab & Haryana High Court relevant record of the matter was examined and found that Shri Kundan Kalra [002823] was wrongly placed at seniority no. 1099 of PGTs as stood on 01.04.2005 and promoted as Principal vide order no 4/30-2007 HRG-I(2) dated 20.07.2007. As a result of which, the officers senior to Shri Kundan Kalra [002823] filed various writ petitions for antedated promotion w.e.f. 20.07.2007 at par with Shri Kundan Kalra [002823] promoted as principal on 20.07.2007. To find out ambiguity, a committee was constituted vide order no. 15/64-2020 PGT-I(3) dated 29.12.2020/31.12.2020 to examine and fix the seniority of Shri Kundan Kalra, Principal (Retd) which consists of the following members:-

1. Smt. Sunita Rani, Joint Director
2. Sh. Ramesh Duhan, CAO

3. Smt. Vandana Gupta, Deputy Director
4. Smt. Indra Beniwal, Deputy Director
5. Sh. Salim Hooda, Assistant District Attorney

The abovementioned committee submitted report dated 15.04.2021 wherein the date of appointment of Shri Kundan Kalra, Principal (Retd) was modified from 15.10.1991 to 25.10.1991. Resultantly, the seniority of Shri Kundan Kalra, Principal (Retd) was re-fixed from 1533 to 1701 A (as stood on 01.04.1998) and 1099 to 1269 A (as stood on 01.04.2005) vide order no. 15/64-2020 PGT-I(1) dated 27.07.2021/03.08.2021. Consequently, Shri Kundan Kalra [002823] has now been placed in seniority between Sh. Sunil Kundu and Smt. Sudesh Kumari, therefore, his promotion date is to be rectified from 20.07.2007 to 21.04.2012.

That, Shri Kundan Kalra [002823], Principal (Retd) was given show cause notice dated 09.05.2022/10.05.2022 to explain his position that as to why his promotion orders should not be modified and be treated to promoted as Principal w.e.f 21.04.2012 and pay & pension be fixed accordingly.

That Shri Kundan Kalra [002823], Principal (Retd) submitted his reply to the show cause notice on 24.05.2022 and requested that promotion orders along with consequential pay/pension benefits may not be modified. Shri Kundan Kalra [002823], Principal (Retd) admitted in his reply dated 24.05.2022 that appointment of applicant as Lecturer is 25.10.1991 and never represented that the date of appointment of applicant as Lecturer was 15.10.1991.

Thereafter, Shri Kundan Kalra [002823], Principal (Retd) was given an opportunity of personal hearing on 01.09.2022 and he reiterated the contents of his earlier reply during the personal hearing. Thus, it is fairly established that Shri Kundan Kalra, Principal (Retd) has admitted that his date of joining as PGT was 25.10.1991 instead of 15.10.1991. In this way, the order passed by the Government on 27.07.2021/03.08.2021 regarding re-fixation of seniority of Shri Kundan Kalra is not disputed.

Keeping in view of the above and submission made by Shri Kundan Kalra during the personal hearing, it was found that Shri Kundan Kalra was wrongly mentioned at 1099 in the seniority of PGTs as stood on 01.04.2005 and promoted to the post of Principal on 20.07.2007 though this officer was to be promoted w.e.f. 21.04.2012, considering his seniority at 1269 A (as stood on 01.04.2005) as per order dated 27.07.2021/03.08.2021, i.e. date his seniors were promoted. Hence, the date of promotion as principal of Shri Kundan Kalra [002823], Principal (Retd) was modified from 20.07.2007 to 24.04.2012 by passing order dated 08.09.2022/09.09.2022 with condition that no recovery shall be made from him for the period he actually worked as principal and pension be re-fixed with immediate effect.

That, Smt Jyotsana Mishra [024712] was promoted as Principal on 21.04.2012/24.04.2012 but she was granted antedated promotion w.e.f. 20.07.2007, in pursuance with the prayer made by the petitioner in CWP No. 36573 of 2019 titled as Jyotsana Mishra V/s State of Haryana along with benefit of notional pay fixation and seniority.

That, antedated promotion granted to Smt Jyotsana Mishra [024712] has to be treated to be promoted from their actual date of promotion resulting into recovery of excess payment and re-fixation of pay/pension. Resultantly, Smt Jyotsana Mishra [024712] was given an opportunity vide order no. 6/21-2021 HRG-I(1) dated 29.09.2022 to make their representations within a period of one week from the date of receipt of this notice through registered post or email on dsehrig1@gmail.com.

That Smt. Jyotsana Mishra [024712] [039428] filed Civil Writ Petition No. 23218 of 2022 titled as Sahi Ram & others v/s State of Haryana for quashing the order dated 29.09.2022 which was disposed of by Hon'ble High Court on 10.10.2022 and the operative part of this order is reproduced as under:-

"Learned Senior counsel appearing for the petitioners submits that keeping in view the statement made by the learned State counsel, the petitioners will file appropriate objections to order dated 29.09.2022 (Annexure P/12) within a period of seven days from today and prays that a direction be issued to the respondent to consider the same while passing the appropriate order. Learned State counsel raises no objection to the said prayer of the learned Senior counsel for the petitioners.

Learned Senior counsel for the petitioners submits that keeping in view the statement of the learned State counsel, the present writ petition may be disposed off having been not pressed any further at this stage.

Ordered accordingly".

That the petitioner i.e. Smt Jyotsana Mishra [024712] made representation dated 06.10.2022 stating therein that she is senior to various officials as per seniority of PGTs as stood on 08.07.2019 and such junior officials were given promotion on 20.07.2007. It has therefore been prayed that benefit of antedated promotion may not be withdrawn. The petitioner i.e. Smt Jyotsana Mishra [024712] made another representation dated 14.10.2022 to the notice dated 29.09.2022 in compliance with order dated 10.10.2022 passed by the Hon'ble High Court in Civil Writ Petition No. 23218 of 2022 titled as Sahi Ram & others v/s State of Haryana and mentioned that she represented the department for antedated promotion w.e.f. 20.07.2007 i.e. date their junior Shri Kundan Kalra [002823] was promoted who was junior to him in the seniority list of PGTs published in the year 2011 and 2014.

That promotion to the post of principal was made on 20.07.2007 upto seniority no. 1104 of PGTs as stood on 01.04.2005 and Smt Jyotsana Mishra [024712] was mentioned at seniority no. 1334. Smt Jyotsana Mishra [024712] was granted antedated promotion w.e.f. 20.07.2007 from the date her junior i.e. Shri Surender Singh Arya [058105] was granted antedated promotion who has also given notice on 29.09.2022 for withdrawal benefits of antedated promotion. Further, the date of appointment of Shri Kundan Kalra, Principal (Retd) was modified from 15.10.1991 to 25.10.1991. Resultantly, the seniority of Shri Kundan Kalra, Principal (Retd) was re-fixed from 1099 to 1269 A (as stood on 01.04.2005) vide order no. 15/64-2020 PGT-I(1) dated 27.07.2021/03.08.2021. Consequently, the date of promotion as principal of Shri Kundan Kalra [002823], Principal (Retd) was modified from 20.07.2007 to

24.04.2012 by passing order dated 08.09.2022/09.09.2022. Since, the benefits of antedated promotion granted to officers w.e.f. 20.07.2007, citing example of Shri Kundan Kalra [002823] has now been withdrawn; therefore antedated promotions of all officers citing the erring seniority list in general and example of Sh. Kundan Kalra in particular need to be withdrawn and rectified. Thus, there is no force in the representation of Smt Jyotsana Mishra [024712] as she could not provide any documentary evidence that she was senior to the officer granted promotion on 20.07.2007

Keeping in view of the above, antedated promotion granted to Smt Jyotsana Mishra [024712] w.e.f. 20.07.2007 is hereby withdrawn and she will be deemed to be promoted from her actual date of promotion. Recovery of excess payment and re-fixation of pay/pension be made as per rule.

I pass order accordingly.

19/11/22

(Anshaj Singh)
Special Secretary, Govt of Haryana
Secondary Education Department,
Haryana, Panchkula

OFFICE OF DIRECTOR SECONDARY EDUCATION, HARYANA, PANCHKULA


Endst. No. 6/21-2021 HRG-I (1)/2

Dated, Panchkula the 19/11/22

A copy is forwarded to the following for information and necessary action:-

1. Advocate General Office, Haryana w.r.t. CWP No. 2755 of 2021 titled as Om Parkash & another v/s State of Haryana
2. District Education Officer, Karnal with direction to make compliance of this order and convey the this to the officer concerned through special messenger and acknowledges the service of this notice
3. Smt Jyostna Mishra [024712], Principal, Government Model Sanskriti Senior Secondary School, Nissing [1799], Karnal. [email - jyotsnamishra3@gmail.com]
4. PA/DSE
5. Secy/ACSSE
6. IT Cell with request to upload this notice on the web portal of the department.

Regd
Post


Superintendent HRG-I
For Director Secondary Education,
Haryana, Panchkula