

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 983 /2004

Dr. Hem Raj Verma, S/o Shri Sant Ram, Professor, Department of Physics,
Punjabi University, Patiala.

.... Petitioner

Versus

1. Punjabi University Patiala through its Vice-Chancellor.
2. Dr. R.C. Verma, Head, Department of Physics, Punjabi University,
Patiala.

.... Respondents

Civil writ petition under Article 226/227 of Constitution of India for issuance of a writ in the nature of certiorari quashing annexure P/23 changing the date of promotion of the petitioner from 01.04.1995 to 27.07.1998 and thereafter quashing P/24 appointing the respondent no.2 as Head of Physics Department in preference to the petitioner who is senior to respondent no.2 and for issuance of a further writ in the nature of mandamus directing the respondents to keep the date of promotion of the petitioner as 01.04.1995 notified vide P/8 on which post the petitioner submitted his joining report which was accepted by the respondents and appoint the petitioner as Head of Physics Department of the respondent University being senior and/or any other writ order or direction which this Hon'ble High Court deems fit in the facts and circumstances of the case.

Respectfully Showeth:

1. That the petitioner is employed as Professor in the Department of Physics with the Punjabi University Patiala. He being a citizen of India is entitled to invoke extra ordinary writ jurisdiction of this Hon'ble High Court under Article 226/227 of the Constitution of India.

2. That the petitioner joined the Punjabi University Patiala in the year 1980 as Lecturer and was promoted as Reader in the year 1986 under Merit Promotion Scheme which came into existence in 1983 which scheme is a part of Calendar of the University (Vol.-I) and is meant to promote Lecturers to the post of Readers and Readers to the post of Professors. The relevant provisions of the scheme as extracted from volume-I of the Calendar of Punjabi University Patiala are reproduced as under:-

Merit Promotion of Lecturers/Readers

Applicability

1. These Statutes shall apply to appointments by promotion of Lecturers as Readers and Readers as Professors and will come into force with effect from 01.01.1983.

Definition

2. In these Statutes unless the context otherwise requires:-

(a) 'Act' means the Punjabi University Act. 1961, as amended from time to time.

- (b) 'Words' and 'Expression' not defined in these statutes shall have the same meaning as assigned to them in the Act/Statutes.

Conditions of Promotion

3. The promotion of Lecturer/Reader to the next higher position will be governed by the following conditions:-

- (i) No additional/extra staff shall be provided in the category of post from which a person has received merit promotion to the next higher post, consequent upon the implementation of this scheme. The work-load shall, therefore be adjusted suitably without seeking additional positions.

Explanation

The implication of the above provision of the statute shall be that adjustment of work-load in a department shall be made in such a manner that the existing teaching capacity of the department shall not be curtailed after promotion of a teacher/teachers in that department.

- (ii) The inter-se-seniority of incumbents eligible for assessment on a particular qualifying date of each year and promoted to the next position after such assessment, shall be determined according to their seniority on the post from which they are promoted.

Eligibility for Promotion

4. (1) The following categories of teachers will be eligible for promotion as Reader in the University:

- (i) Lecturers with a doctoral degree with eight years' service.
- (ii) Lecturers without doctoral degree with twelve years' service.

Provided that a lecturer in category (i) has rendered four years' service and a lecturer in category (ii) has rendered six years' service in Punjabi University:

(2) The following shall be eligible for promotion as Professor in the University :

Rader with at least 8 years' service as Rader or equivalent.

Provided that they should have 4 years' continuous service as Reader in the Punjabi University at the time of promotion.

Explanations:

1. "Service" will mean service rendered as Reader/Lecturer or equivalent in the Punjabi University or any other University /College/Institute as explained in note given below:

Note: In case of University Lecturers, who had worked in any college/Institute recognized by the University before joining the

University, their teaching experience of post-graduate/under-graduate classes will also be counted to determine their eligibility for promotion as Reader.

2. “Equivalent” will mean academic faculty granted the same scale of pay.

3. Teaching experience includes all periods spent on leave except extraordinary leave for non-academic purposes.

Procedure for Assessment

5. The teachers interested in such assessment and consideration for merit promotion shall:

(a) Present their bio-data and work (to include research publications, books, reviews, curriculum development teaching aid, innovation in teaching methods, equipment developed etc.) on prescribed proforma atleast one month prior to the date of his/her fulfilling the conditions of eligibility.

(b) The work presented by the teachers shall be referred to two referees in the subject/discipline concerned. The referees would be selected by the Vice-Chancellor out of a panel of names set up according to the procedure prescribed by the University for the appointment of Selection Committees.

- (c) The reports of the referees shall be made available to the Selection Committee to be constituted in the same manner in accordance with the statutes relating to the appointment of Selection Committee for teaching/research posts.
- (d) The suitability of the candidate for higher post will be assessed by the Selection Committee on the basis of academic achievement, opinion of the referees and personal interview.

Manner of Promotion

6. Promotions under these statutes will be made by the competent authority in the following manner:

- (i) The promotion of Lecturers/Readers to the next higher position will be made on his own post without addition to the number of faculty positions.
- (ii) An incumbent will be promoted to the next higher position only if he is found suitable by the Selection Committee.
- (iii) While making selection for such promotion the Selection Committee will not recommend any advance increment. Only marginal adjustments would be made in the new scale.
- (iv) An assessee who has not been found suitable for promotion after assessment shall be entitled to offer himself/herself for

reassessment after a lapse of one year from the date of last assessment.

- (v) Not more than $1/3^{\text{rd}}$ of the number of total permanent positions of Lecturers of Readers within a department may hold such merit promotions at next higher level at any given time. Persons holding such merit promotion shall not count for determining the total posts in the cadre of Readers for purposes of merit promotion to Professors:

Provided that such Departments which are having a minimum of two regular/permanent teaching positions in a particular cadre would also be eligible for consideration.

Provided further that in case of the Departments having only one teacher and where the teacher has done work that merits recognition and encouragement, there could be clubbing of such departments to create a promotion channel, provided the number of teachers promoted shall not exceed $1/3^{\text{rd}}$ of the total number of permanent posts of Lecturers/Readers in these departments.

Provided further that teachers who are found suitable for promotion under this scheme but can not get promotion due to the non-availability of quota in their respective departments may be promoted against the quota available in other departments; provided that the overall proportion for each cadre is not exceeded and provided further that promotion of teachers under the overall quota

shall be made keeping in view their overall seniority in their respective cadre in the University.

- (vi) An assessee who has been found suitable for promotion after assessment shall be entitled for promotion to the next higher post from the date he/she fulfils the condition of eligibility.

3. That in view of the provisions of the Merit Promotion Scheme the petitioner was entitled to be promoted as Professor after completion of 8 years of service as Reader. The petitioner completed his 8 years of service as Reader on 31.12.1993 and was therefore entitled to be promoted as Professor on 01.01.1994. The petitioner submitted the requisite application form/bio data etc. as envisaged in the scheme on 29.12.1993, copy of the forwarding letter is attached as Anexure P/1. It was forwarded to the University office by the Head of the Department. The University vide letter dated 13.01.1994 returned the same saying that the quota is not yet available for considering the petitioner for the post of Professor and whenever the quota will become available the requisite bio-data will be obtained, copy of which letter is attached as Anexure P/2.

4. That it may also be mentioned here that the petitioner was selected as Professor of Physics by the Union Public Service Commission for appointment in Punjab Engineering College Chandigarh in the year 1991. He was appointed as such by the Chandigarh Administration and also worked as Head of the Applied Sciences Department in the Punjab Engineering College Chandigarh during the year 1992-1993 during which period he remained on leave from Punjabi University Patiala. He left this

post of Professor from Punjab Engineering College to rejoin at Punjabi University Patiala expecting that he is to get promotion on 01.01.1994 under MPS on completion of 8 years of service as Reader in Punjabi University Patiala.

5. That the seniority of Readers/Professors promoted under MPS was always fixed in the same seniority list as that of directly recruited Readers/Professors being two channels of filling up the same post as envisaged in the University Calendar. As per rule of seniority, the seniority was fixed on the basis of continuous length of service in a particular cadre. Tentative as well as final seniority lists were circulated by the University on the basis of continuous length of service in a particular cadre. Thereafter a controversy arose as to whether Merit Promotees were occupying cadre posts or non-cadre posts. One Dr. D.S.Dhillon filed a writ petition without impleading the Merit Promotees in which case it was decided that the Merit Promotees are not occupying cadre posts. On the basis of this decision the respondent University prepared seniority list of direct recruited only. When the matter was taken to the Syndicate in its meeting held on 28-2-1998, the Syndicate proposed the amendment in the seniority rules indicating therein that seniority shall be determined according to the length of service irrespective of the fact whether the incumbent is a direct recruit or appointed by promotion. Though even as per unamended seniority rule, the Merit Promotees were also entitled to the seniority on the basis of continuous length of service as the Merit promotion was also a statutory channel of promotion. This fact was not brought to the notice of this Hon'ble High Court while pleading the case of University. This action of the University in preparing the seniority list of only direct recruits and not considering the

Merit promoted Readers was challenged by the petitioner and others by way of CWP no. 14757 of 1999 (S.M. Vasudeva and Ors. Vs. Punjabi University). In the said writ petition interim order was passed on 24.03.2000, which is reproduced as under:-

Shri Kewal Krishan has placed before us a typed copy of the letter no.PRB-2G-2000/2319 dated 22.03.2000. As perusal of this letter shows that the Chancellor has approved the proposal contained in the letter dated 06.04.1998 sent by the respondent University for amendment in the Statute 15(1), 15(2), 15 (3) and 6 of the Punjabi University Calendar.

The petitioners who are present in person as well as the respondent no.4 made submissions on the merits of the case but as all the parties are not present before us, it is not possible to make final adjudication on the issues raised in the petition.

Hence we adjourn the case to 19.07.2000. While doing so, we record the statement of Shri Ashok Kumar Walia that the University will immediately take up the issue relating to the amendment of statutes 15(1), 15(2), 15(3) and 6 in the light of the communication received from the Chancellor's secretariat. We hope that necessary amendment as well as the exercise to make promotion on the vacant post of Professors will be undertaken and completed within a period of two months.

24.03.2000

(Sd/-) Justice G.S. Singhvi and (Sd/-) Justice Mehtab Singh Gill

6. That the petitioner remained pursuing with the University for promoting him as Professor as the quota was available with effect from 01.04.1995. But the University did not promote him for a long time. Ultimately under the interim orders of this Hon'ble High Court reproduced above, the University vide letter dated 03.05.2000 asked the petitioner to submit the requisite information, copy of which is attached as Annexure P/3. The petitioner immediately submitted the information. After getting the bio-data assessed by the referees, the petitioner was interviewed by the Selection Committee and recommended for promotion as Professor on 03.07.2000 and was promoted vide order dated 03.07.2000. Copies of the proceedings of the Selection Committee and order both dated 03.07.2000 are attached as Annexure P/4 and P/4-A respectively. It may be mentioned here that the petitioner's promotion was subject to the result of CWP No.14757/99. The promotion was approved by the Syndicate on 24.10.2000, copy of which is attached as Annexure P/5. It may also be mentioned here that one Dr. B.L. Mehta who was senior to the petitioner as Reader was not found fit for promotion as Professor and was not given promotion alongwith the petitioner and who was later on promoted under the CAS Scheme.

7. That it may also be mentioned here that three Readers namely Shri S.D. Gajrani, Shri D.S. Dhillon and Shri G.R. Kataria were also promoted to the post of Professors on 03.05.2000. Shri S.D. Gajrani and ors. filed CWP No.8174 of 2000 which came up for hearing before this Hon'ble High Court on 05.07.2000 in which the following interim order was passed:

It is interalia contended that even if it is held that the amendment as reflected in App. P-2 has come into force and is valid, yet the vacancies of the post of Professors which were of existence prior to the amendment have to be filled according to the unamended statutes.

Notice of Motion 12.07.2000. Status quo as it exists today regarding the filling of posts of Professors be maintained.

05.07.2000

(Sd/-) Justice R.S. Mongia and (Sd/-) Justice K.C. Gupta

It may also be mentioned here that CWP No. 14757 of 1999 as well as CWP No. 8174 of 2000 stand admitted in this Hon'ble High Court and are still pending awaiting final hearing.

8. That in the mean time the University was contemplating to make promotion to the posts of Professors under Career Advancement Scheme called CAS (1996), which was circulated vide letter dated 30.07.1999. The petitioner applied for considering his case for promotion as Professor and submitted an application on 16.08.1999 for considering his case for promotion as Professor under CAS. When the candidature of other Junior Teachers of the Physics Department was being considered, the petitioner again requested vide letter dated 13.07.2000 that his case be also considered for promotion because his promotion vide letter dated 03.07.2000 under MPS 1983 is subject to the result of the CWP No. 14757 of 1999. Copy of this letter is attached as Annexure P/6. The request of the petitioner was rejected vide letter dated 17.10.2000 saying that as the petitioner is already working as Professor, he cannot be considered for promotion as Professor under Career Advancement Scheme. It was also

mentioned in the letter that if the petitioner wants to be considered for promotion under CAS, he should first resign and then submit himself for promotion as Professor under CAS. Copy of the letter is attached as Annexure P/7. It may also be mentioned here that 6 teachers who were junior to the petitioner in the Department of Physics were appointed and promoted as Professor under CAS 1996 who were interviewed during the year 2001 and 2002 but were given promotion effective from 27.07.1998.

9. That the respondent University ultimately vide letter dated 23.01.2002 decided and notified the deemed date of promotion as Professor under MPS (1983) with effect from 01.04.1995 as the quota for promotion under the scheme became available from that date. Copy of the letter dated 23.01.2002 is attached as Annexure P/8. The petitioner immediately submitted his joining report from the deemed date of promotion which was forwarded by the head of department of Physics on 24.01.2002, copy of which is attached as Annexure P/9.

10. That it may be also be mentioned here that there was change in the Political Government in the State of Punjab. Consequently there were also changes of Vice-Chancellor, Registrar, Dean Academic Affairs of the University in April 2002. Under pressure of the Professors of various Departments promoted under CAS Scheme, the University wanted to harm the teachers promoted under MPS 1983 w.e.f. 01.04.1995 by the earlier Vice-Chancellor. With this view in mind the respondent University vide letter dated 28.03.2003 withdrew notification dated 23.01.2002 vide which the promotion was given effect from the date from which quota became available and the petitioner fulfilled all the conditions of eligibility and had

applied before that date, copy of which is attached as Annexure P/10. It may be mentioned here that the Annexure P/10 withdrawing the date of deemed date of promotion was issued without giving any opportunity of hearing to the petitioner. Simultaneously the respondent University vide letter dated 28.03.2003 invited objections from the teachers who may be aggrieved by the grant of deemed date of promotion with effect from 01.04.1995, copy of which is attached as Annexure P/11. From the perusal of P/11 it is clear that the University itself invited objections without any rhyme and reason as it was bent upon harming the petitioner and others who were promoted under MPS 1983 from the date the post became available. It is also clear from the perusal of the P/11 that a committee was appointed under the Chairmanship of Pro Vice-Chancellor for reconsidering the promotions made under MPS 1983 with effect from 01.04.1995. It is also worth mentioning here that while passing P/10 there was no objection with the respondent university filed by any Reader/Professor challenging the date of promotion of the petitioner with effect from 01.04.1995 nor any one filed court case challenging the promotion of petitioner and others with effect from 01.04.1995. It is the University itself which invited the objection after a gap of more than 14 months from the date of notifying the date of promotion of petitioner and others with effect from 01.04.1995.

11. That the petitioner on issuance of P/10 met the Vice-Chancellor and apprised him of the factual position. After that the University vide letter dated 04.04.2003 withdrew letter dated 28.03.2003 (P/10), copy of which is attached as Annexure P/12. The respondent University again appointed another committee under the Chairmanship of Dean Academic Affairs by changing its earlier Chairman who was Pro Vice-Chancellor of the

University in May, 2003 as the respondent University was bent upon harming the petitioner and others who were promoted under MPS 1983 from the date quota was available. This committee issued letter dated 13.05.2003, copy of which is placed as Annexure P/13, asking for the defence of the petitioner in case the review is made regarding the promotion given with effect from 01.04.1995. The petitioner asked for some information before replying to P/13 vide his letter dated 16.05.2003, copy of which is attached as Annexure P/14. The committee without supplying the information asked for by the petitioner and without taking into consideration P/14 proposed that promotion from 01.04.1995 may be kept in abeyance. The matter was taken to Syndicate on 10.11.2003 but the Syndicate reconstituted the committee under the Chairmanship of Dean Academic Affairs by changing four of its members. This committee again issued a letter to the petitioner on 12.12.2003, copy of which is attached as Annexure P/15, asking the petitioner to appear before the committee on 20.12.2003 at 11.30 am before the committee in the office of Dean Academic Affairs. The petitioner submitted objections in the matter, copy of which is attached as Annexure P/16 and also submitted facts before the committee, copy of which is attached as Annexure P/17. It may also be mentioned here that the reconstitution of the committee for the purpose time and again was malafide. Two members of the committee viz. Shri U.C. Singh Dean Academic Affairs and Dr. R.K. Sehgal were always there in the committee. These two members were in league with the Professors promoted under CAS and Dr. R.C. Verma respondent no.2, whom they wanted to help and respondent no.2 was promised by them to be made as Head of the Department.

12. That the committee without considering P/16 and P/17 and without passing any speaking order on the points raised by the petitioner in P/16 and P/17 recommended that the promotion under MPS may be treated to be given with effect from 27.07.1998. Copy of the recommendation of the committee dated 20.12.2003 is attached as Annexure P/18. The matter was taken to the Syndicate in its meeting held on 01.01.2004. The Syndicate accepted the recommendations of the committee. Copy of the proceeding of the Syndicate is attached as Annexure P/19.

13. That it may also be mentioned here that the petitioner is seniormost Professors in the department of Physics after Dr. S.P.S. Viridi which is clear from letter dated 17.02.2003, copy of which is attached as Annexure P/20. The notice of the meeting is endorsed to the teachers according to their seniority. But the respondent University was bent upon harming the petitioner and vide order dated 29.09.2003, copy of which is attached as Annexure P/21, after the retirement of Dr. B.R. Sood, the then Head of Physics Department appointed Dean Faculty of Physical Sciences as Head of the Physics Department ignoring the petitioner who was senior most Professor available in the Department of Physics. The petitioner immediately represented against the appointment of Dean Faculty of Physical Sciences as Head of Physics Department vide representation dated 01.10.2003, copy of which is attached as Annexure P/22, pleading therein that the petitioner being the seniormost Professor in the department of Physics after Dr. S.P.S. Viridi and Dr. B.R. Sood (since retired) whose terms as Head of the Department of Physics has already expired, was entitled to be appointed as Head.

14. That it is also mentioned that the decision of the Syndicate dated 01.01.2004 has been conveyed to the petitioner on 07.01.2004, copy of which is attached as Annexure P/23. Whereas the respondent University on the basis of decision of the Syndicate vide P/23, changing the seniority of the petitioner from the date of 27.07.1998, appointed respondent no.2, Dr. R.C. Verma, as Head of the Department vide order dated 01.01.2004, copy of which attached as Annexure P/24. This order was issued on 01.01.2004 itself i.e. the date of meeting of the Syndicate whereas the petitioner was conveyed the order dated 01.01.2004 on 07.01.2004 depriving the petitioner from challenging or obtaining stay of Annexure P/24. In other words the decision was implemented before conveying the same to the petitioner with malafide intention of harming the petitioner. It may be mentioned here that the petitioner was assigned the date of promotion as 01.04.1995 and the respondent no.2 was appointed as Professor directly in October/November 1995 and was always considered junior to the petitioner as is evident from Annexure P/20.

15. That according to the regulations of the respondent University a Head of the Department is appointed for a period of 3 years or till the date of retirement if the date of retirement is earlier than 3 years. The headship is rotatory even if the seniormost Professor does not retire after 3 years of headship, the next senior Professor is appointed as Head of the Department. In the present case the petitioner was entitled to be appointed as Head of Physics Department after the retirement of Dr. B.R. Sood on 30.09.2003. But in order to harm the petitioner, Dean Faculty of Physical Sciences was given the additional charge of Head of Physics Department in addition to his being Dean Faculty of Physical Sciences. Thereafter on

01.01.2004, the respondent no.2 has been appointed as Head for a term of 3 years ignoring the valid and lawful claim of the petitioner.

16. That it is also mentioned here that the respondent no.2 was appointed as Professor in the respondent University in October/November 1995 whereas the petitioner was working in the respondent University since 1980. He was entitled to be promoted as Professor on completion of eight years service as Reader on 01.01.1994. He applied for promotion as required under the MPS 1983 but his case was returned by the University saying that his case will be considered as and when the quota becomes available. It is admitted fact that the quota became available on 01.04.1995 and that is why the petitioner was granted promotion from that date as the quota became available on that date.

17. That the impugned orders/decision P/23 and P/24 are unconstitutional, illegal, arbitrary, malafide, against the principles of natural justice and against the rules/statutes of the University and therefore liable to be set-aside on the following grounds:-

- a) That it is the petitioner only who applied for his promotion under MPS as per the mandatory requirement of the statutes. No other Reader in the University applied for his promotion for Professorship before 01.03.1995 to make him entitled to promotion with effect from 01.04.1995. The petitioner applied for promotion as Professor alongwith all relevant requisite data on 29.12.1993 as the petitioner was eligible and entitled for promotion under

MPS on completion of 8 years service as Reader on 01.01.1994. As per statutory condition one has to apply one month prior to the date from which he is due for promotion or he seeks promotion. Thus the petitioner was given promotion from 01.04.1995 when the quota for promotion for under MPS became available as the petitioner applied well in advance and over one month prior to this date. It has been settled by this Hon'ble High Court in RSA No.2244 of 1990 decided on 30.04.1992 that only those applications can be considered which are received by the University on or before 31st December of each year. In this case the plaintiff submitted his bio-data in September 1986 and his case for promotion could be considered only with effect from 01.01.1987 and not from 01.01.1985 as claimed by the plaintiff. In view of this decision it is clear that the candidate who seeks promotion has to apply one month prior to the date from which he seeks promotion after becoming eligible. The petitioner submitted his bio-data well in advance to make him entitled for promotion with effect from 01.04.1995

- b) That the respondent University has been appointing Head of the Departments, Deans of the Faculties, Members of the Academic Council, Members of the Senate and Members of the Syndicate from amongst the Professors promoted under merit promotion scheme since the inception of merit promotion scheme. Some of

the examples are that S./Shri Professor Mohinder Singh, Professor H.S. Sahota, Professor S.C. Gupta, Professor V.P. Nayyar, Professor S.P.S. Virdi, Professor B.R. Sood, all merit promoted Professors from Physics Department had been appointed as Head of the Physics Department/Dean Faculty/ Member of the Syndicate etc. This fact makes it clear that the merit promotees Professors/Readers were always treated as promoted on cadre posts and they were always assigned seniority in the respective seniority lists on the basis of continuous length of service. Now the respondents with malafide intention cannot change their stance abruptly.

- c) That even after the amendment of the statutes consequent to the consent of the governor, regarding seniority of the teachers, Dr. V.P. Nayyar, Dr. S.P.S Virdi and Dr. B.R. Sood from the Department of Physics were appointed as Head/Dean. These and many others who were merit promotees of other departments retained their earlier seniority when they were promoted as Professors under merit promotion scheme without adversely effecting their original seniority.
- d) That even today the merit promoted Professors are occupying the post of Dean Academic Affairs (Mr. U.C. Singh), Members of the Syndicate (Professor S.P.S. Virdi, etc.) on the basis of their seniority from the date of

promotion as Professor under merit promotion scheme. Many other Professors are Deans of different Faculties who were promoted under merit promotion scheme on the basis of date of their promotion under merit promotion scheme and their seniority has not been disturbed at all. It clearly shows that the seniority of the merit promoted Professors had not been changed in the case of Professors mentioned in foregoing paras but the date of promotion has been adversely effected and changed in the case of petitioner without any cogent and valid reason.

- e) That Dr. S.D. Gajrani and Dr. G.R. Kataria who were also given the date of promotion as Professor under MPS with effect from 01.04.1995 alongwith petitioner were made the Director Correspondence Courses and Head of Department of English respectively on the basis of their promotion with effect from 01.04.1995. Dr. G.R. Kataria was thereafter appointed as Dean Faculty of Languages and Member of the Syndicate based on his seniority as Professor with effect from 01.04.1995 under merit promotion scheme. But the claim of the petitioner on 01.10.2003 for headship of the Physics Department was not considered, whereas similarly situated Professor Dr. Kataria was holding the post of Head of English Department/Dean Faculty of Languages and Member of the Syndicate. This clearly shows that the petitioner was

arbitrarily not appointed as Head of Physics Department on the retirement of Dr. B.R. Sood on 01.10.2003.

- f) That it is not out of place to mention here again that it is the petitioner only who applied for promotion as Professor under merit promotion scheme prior to 01.04.1995 as required under the statute of merit promotion scheme. In spite of this fact the date of promotion of the petitioner is being arbitrarily changed which is illegal and unconstitutional.
- g) That the petitioner was assigned seniority with effect from 01.04.1995 as the quota for promotion as Professor became available on that date and the petitioner being eligible and entitled to that date of promotion as he had already applied for promotion before that date as required under the statutes of merit promotion scheme. Once the respondent University itself found that the quota for merit promotion was available, assigned seniority from that date and accepted the joining report of the petitioner from that date, the respondent University is estopped from changing the date of promotion arbitrarily.
- h) That the petitioner vide his representation dated 16.05.2003 (P/14) asked for various information/ documents to enable him to submit his reply. The respondent University neither responded to the

communication of the petitioner nor supplied the required information/documents. In view of this fact also it is illegal and arbitrary to change the date of promotion without supplying the information/documents asked for by the petitioner.

- i) That the petitioner submitted his objections and interim reply dated 20.12.2003 (P/16 and P/17) to the committee. Not a single point raised by the petitioner in these communications has been dealt by the committee while reconsidering the date of promotion of the petitioner. It clearly shows that the points raised by the petitioner have never been considered and that is the reason that no speaking order on the points raised by the petitioner has been passed. The decision without taking into consideration the points raised by the petitioner is illegal and arbitrary and liable to be set-aside on the sole grounds of the same being a non-speaking order and violative of principles of natural justice.
- j) That the respondent University has illegally changed the date of promotion of the petitioner from 01.04.1995 to 27.07.1998. In the agenda item of the Syndicate (P/19), it has been clearly mentioned that it is not possible to change the date of promotion. In spite of the stand of the respondent University itself that the date of promotion cannot be changed, they are changing the date of

promotion from 01.04.1995 to 27.07.1998 without any logic or basis. The two schemes (MPS and CAS) are entirely different schemes and date of promotion cannot be changed on the ground that the CAS has been implemented with effect from 27.07.1998. If the respondent University is allowed to change date of promotion like this then all the Professors promoted from 01.01.1983 onwards should have been treated to have been promoted from 27.07.1998.

- k) That the quota of promotion under merit promotion scheme to the post of Professors was available on 01.04.1995 to the extent of 20 posts. If the University considered that some of the senior eligible Readers who had applied one month prior to 01.04.1995, could consider those Readers for promotion from that date. As settled by this Hon'ble High Court the candidate who has not applied earlier to the date from which he is demanding promotion cannot be given promotion prior to the date on which he applied for the same.
- l) That the impugned order of the respondent order changing the date of promotion is liable to be set-aside as the change of date of promotion is not only adversely affecting the petitioner for appointment as Head of the Department but also adversely affecting his career for appointment as Dean of the Faculty of Physical

Sciences, Member of the Academic Council, Member of Senate, Member of the Syndicate etc. etc.

- m) That the stand of the respondent University that the decision regarding assigning the date of promotion to the petitioner from 01.04.1995 was not approved by the Syndicate is not tenable. It is the office of the University (including Deputy Registrar Establishment and the Registrar of the University), who found that the quota of 20 posts for the promotion as Professors under merit promotion scheme is available with effect from 01.04.1995. Thereafter the Vice-Chancellor of the University passed the order assigning the date of promotion to the petitioner as 01.04.1995 as the quota for promotion as Professors was available on that date. It was for the respondent University to take the matter to the Syndicate for formal approval. As per the Act of the University if the Vice-Chancellor takes decision in emergent conditions, the decision has to be taken to the Syndicate for approval immediately in the next meeting of the Syndicate. In the present case the seniority was assigned on 23.01.2002 and thereafter a number of meetings of the Syndicate were held but the present matter was not taken to Syndicate for confirmation of the executive order of the previous Vice-Chancellor. The petitioner is not at fault or liable for not taking the matter to the Syndicate for formal approval. It may also be

mentioned here that the Selection Committee proceedings were already approved by the Syndicate promoting the petitioner and others to the post of Professor. The date of promotion has never been mentioned or got approved from the Syndicate as is being mentioned by the respondent University.

- n) That it is also worth mentioning here that the impugned decision is malafide due to the change of Vice-Chancellor and other office bearer of the University consequent upon the change of political government of the state. With the change of Vice-Chancellor and other office bearers of the University the decision of the previous Vice-Chancellor cannot be allowed to be changed.
- o) That the date of promotion of the petitioner vide P/4-A was not final as per clause 5 of the same. But when after considering all the facts vide P/8 the date of promotion of the petitioner was fixed as 01.04.1995 as the quota under MPS scheme for promotion to the post of Professor was available and the petitioner was eligible for promotion from that date. Thereafter the respondents are estopped to change the date of promotion of the petitioner because clause 5 ceased to exist after passing of P/8.
- p) That it is strange that the petitioner was not considered for promotion under CAS for which he applied vide P/6

and his application was rejected vide P/7 saying that he will have to forego his promotion as Professor under MPS if the case is to be considered for promotion under CAS. On the other hand the respondent University is considering the claim of Professors under MPS who were promoted under CAS.

- q) That it is also worth mentioning here that some of the Readers who were not found fit for promotion under MPS scheme whose cases were considered alongwith the petitioner have been promoted under CAS after the promotion of the petitioner. Now by assigning the date of promotion as 27.07.1998 those candidates who were not found fit while the petitioner was found fit and promoted, are to get senior ranking due to their more length of service as Reader.
- r) That a perusal of P/11 make its clear that the trouble was invited by the University itself and before issuance of P/11 there was nothing on record objecting the promotion of the petitioner and others under MPS with effect from 01.04.1995 nor any one challenged the same in any court of law. Secondly the University after the interim orders of this Hon'ble High Court in CWP No. 8174/2000 could not consider the case of any Reader for promotion as status quo was ordered by this Hon'ble High Court.

18. That the following law points are involved in the writ petition for adjudication by this Hon'ble High Court:-

- (a) Whether the action of the respondents is unconstitutional, illegal, arbitrary, violative of article 14 & 16 of the Constitutional of India and against the principles of natural justice and policy of the respondents?
- (b) Whether grave and manifest injustice has been done to the petitioner?

19. That there is no remedy of revision or appeal is available to the petitioner under the statutory rules.

20. That no other civil suit or writ petition has been filed by the petitioner in this Hon'ble High Court or in the Hon'ble Supreme Court for seeking the same or similar relief.

It is therefore, respectfully prayed that:-

- (i) The services of the advance notices on the respondents may be dispensed with,
- (ii) Filing of the certified copies of the annexure may be dispenses with,
- (iii) The original records of the case may be called for,
- (iv) A writ in the nature of certiorari quashing annexure P/23 changing the date of promotion of the petitioner from

01.04.1995 to 27.07.1998 and thereafter quashing P/24 appointing the respondent no.2 as Head of Physics Department in preference to the petitioner who is senior to respondent no.2 and for issuance of a further writ in the nature of mandamus directing the respondents to keep the date of promotion of the petitioner as 01.04.1995 notified vide P/8 on which post the petitioner submitted his joining report which was accepted by the respondents and appoint the petitioner as Head of Physics Department of the respondent University being senior may be issued,

- (v) Any other writ order or direction which this Hon'ble High Court deems fit in the facts and circumstances of the case may be issued,
- (vi) Cost of the writ petition may be awarded to the petitioner,

It is further prayed that during the pendency of the present writ petition the operation of the impugned orders P/23 and P/24 may be stayed during the pendency of the present writ petition in the interest of justice.

Through Counsel (D.R. Bansal), Advocate

VERIFICATION:

It is verified that the contents of para no. 1 to 17 and 19 and 20 are true and correct to my knowledge. The contents of para no. 18 are believed to be true as per advice of the counsel. No part of it is false and nothing has been kept concealed there from.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

In CWP No. /2004

Dr. Hem Raj Verma

..... Petitioner

Versus

Punjabi University & anr.

.... Respondents

Affidavit of Dr. Hem Raj Verma, S/o Shri Sant Ram, Professor,
Department of Physics, Punjabi University , Patiala.

I the above named deponent do hereby solemnly affirm and declare as
under:-

1. That the petitioner is filing accompanying writ petition in this Hon'ble High Court.
2. That the contents of para no. 1 to 17 and 19 and 20 of the accompanying writ petition are true and correct to my knowledge and that of para no. 18 are as per advice of the counsel believed to be true. No part of the contents is false and nothing has been kept concealed therefrom.

VERIFICATION:

It is verified that the contents of para no. 1 to 2 are true and correct to my knowledge. No part of it is false and nothing has been kept concealed there from.

No. 1550/ Phys

30.12.93

Registrar Sahib,
Punjabi University
Patiala

Through: Head Physics Department

Subject: Application for Professor of Physics under Merit Promotion Scheme

Sir,

I am interested for assessment and consideration for Merit Promotion from Reader to Professor. For this purpose, I am sending herewith my bio-data and research work, details about teaching experience (5 copies) on prescribed performa.

For necessary action and record,

Sincerely

Sd/-

Dated 29.12.93

(Dr. Hem Raj Verma)

Reader, Deptt. Of Physics

Forwarded

Sd/-

Head, Physics Deptt.

True Translation

Advocate

Punjabi University , Patiala

No. 626/ Estt/A-8

Dated 13-1-94

Head,

Physics Department,

Punjabi University , Patiala

Subject: Application for Professor of Physics under Merit Promotion

Scheme

Sir,

This is in reference to application 1550/Physics dated 30-12-93.

Regarding the letter under reference, returning the research material submitted by Dr. Hem Raj Verma, it is informed that he may please informed that no quota is available in the department for promotion from Reader to Professor. Whenever the quota will be available, the research material will be invited for evaluation.

Sincerely

Sd/-

Assistant Registrar (Estt.)

Marked to Dr. H.R.Verma

By Head Physics

31.1.94

True Translation

Advocate

PUNJABI UNIVERSITY PATIALA

No. 9482/Estt/A-8

Dated 3/5/2000

Dr. Hem Raj Verma

Professor

Physics Department

Punjabi University Patiala

Subject: Regarding promotion from Reader to Professor under Merit

Promotion Scheme

Sir,

A few quota is available for promotion from Reader to Professor under Merit Promotion Scheme (1983). You are requested that you may please send the 13-13 copies of the applications on the prescribed proforma along with three-three copies of the research materials/books.

This material should be sent to the Establishment branch, through the Head of the Department, positively so that further action may be taken by the office well in tome.

Sincerely

Sd/-

Registrar

Attached: Proforma

True Translation

Advocate

PUNJABI UNIVERSITY PATIALA

The meeting of the selection committee was held on 3-7-2000 at 11.00 AM in the office of the Vice-Chancellor to recommend the promotion of Professor in the subject of Physics under the Merit Promotion Scheme

1. Candidates who appeared before the selection committee:

1. Dr. B.L.Mehta
2. Dr. Hem Raj Verma

2. The reports of evaluation of the research material, presented by them, made by two experts, was looked into carefully from necessary aspects.

3. Recommendations of the committee:

It is recommended that Dr. Hem Raj Verma be promoted as Professor.

Sd/-

(J.S.Ahluwalia)
Vice-Chancellor

Sd/-

(R.M.Goel)
Pro-Vice-Chancellor

Sd/-

(M.S.Gill)
Dean, Faculty of Physical Sciences
Sd/-

Sd/-

(S.P.S.Virdi)
Head of the Department
Sd/-

Member Syndicate

Professor of the Faculty

Sd/-
Expert-I
Sd/-
Expert-III

Sd/-
Expert-II

True Translation

Advocate

Punjabi University Patiala

No. 14477-85/Estt/A-8

Dated : 3-7-2000

Notification/ Merit Promotion/ 2000/ 2

The Syndicate in its meeting dated 23-2-2000 para-1 has authorized the Vice-Chancellor that he should issue the appointment letters to persons unanimously recommended by the selection committees subject to and in anticipation approval of the syndicate.

Using this power as per the orders of the Vice-Chancellor, the unanimous selection made by the relevant selection committee, the appointment letter is being issued to the following teacher promoting him as Professor against the overall quota under the Merit Promotion Scheme (1983):

1. Dr. Hem Raj Verma

The following conditions will apply on his promotion:

1. His promotion will be subject to the final decision of C.W.P.14757/99 pending in Punjab and Haryana High Court.
2. The inter-se seniority of teachers promoted on the same date will be the same as in the lower cadre.
3. This promotion will be personal promotions and whenever the teacher working against this posts will vacate, this will get converted to its original post.
4. The salary of promoted teachers will be fixed as per University norms.
5. The date of promotion will be decided afterwards along with other cases. The date of promotion will not depend on the date of selection or the

date of notification. This will be decided in accordance with the length of service as per the seniority and other relevant factors as per the rules.

Sd/- Registrar

Copy to:

1. Concerned Department
2. Concerned teacher – Hem Raj Verma, Physics
3. Controller (Examinations)
4. Finance Officer
5. Assistant Registrar (General)
6. Superintendent (Syndicate)
7. Superintendent (Meetings)
8. Superintendent (Recruitment)
9. Assistant (Establishment) –4
10. Superintendent (Budget)
11. Personal Files

True Translation

Advocate

Noted the orders of the Vice-Chancellor for filling different posts recommended unanimously by selection committees regarding issuing the appointment letters

34. Resolved that as per the powers vested in Vice-Chancellor by the Syndicate in its meeting dated 23-2-2000 (para-1), the orders regarding the issuance of appointment letters to the following candidates by the relevant selection committees (Appendices 20(A), 20(B) and 20(C) have been noted:

<u>S.No.</u>	<u>Name of the Candidate</u>	<u>Post</u>	<u>Subject</u>
1.	Dr. Hem Raj Verma	Professor	Physics
2.	Dr. Harbans Pathak	Professor	Public Administration
3.	Dr. Surinder Singh Khaira	Professor	D.P.D

It is clear that

1. These promotions will be subject to the final decision of C.W.P.14757/99 pending in Punjab and Haryana High Court.
2. Seniority will be as per rules.
3. These promotions will be personal promotions and whenever the teachers working against these posts will vacate, these will get converted to their original posts.
4. The salary of promoted teachers will be fixed as per University norms.

5. The date of promotion will be decided afterwards along with other cases. The date of promotion will not depend on the date of selection or the date of notification. This will be decided in accordance with the length of service as per the seniority and other relevant factors as per the rules.

House also noted that the Syndicate in its meeting dated 23-2-2000 (para-1) has authorized the Vice-Chancellor that he should issue the appointment letters to persons unanimously recommended by the selection committees subject to and in anticipation approval of the syndicate.

True Translation

Advocate

Annexure P-6-T

No. 1495/Physics

Dated 13.7.2K

Registrar Sahib,
Punjabi University
Patiala

(Through – Head Physics Department)

Subject: Request for consideration under Career Advancement Scheme

Sir,

With reference to your circular No. 14893-953/Estt/A-4 dated 30-7-99, I have already submitted my application along with biodata for consideration of promotion from Reader to Professor under Career Advancement Scheme through letter No.8505/Physics dated 16-8-99.

The appointment letter 14477-85/Estt/A-8 dated 3-7-2000 was issued to me after recommendation by the selection committee dated 3-7-2000 for my promotion from Reader to Professor under Merit Scheme. Accordingly I had joined as Professor of Physics. Since as per condition No.1 of this appointment letter, my promotion is subject to the final decision of CWP 14757/99 pending in the Hon'ble Punjab and Haryana High Court, therefore I feel it appropriate that my case of promotion should also be considered under Career Advancement Scheme so that if at any stage I am put to positional or financial loss due to the decision of the above said case, then

my promotion remains intact. My claim under Merit Promotion Scheme may please be kept intact while considering my case under Career Advancement Scheme.

Thanking you,

Yours faithfully,

Sd/-

Dated 13-7-2000

(Hem Raj Verma)

Professor

Physics Department

Forwarded Sd/- Head

True Translation

Advocate

Punjabi University Patiala

No. 21667/Estt/A-8

Dated 17-10-2000

Dr. Hem Raj Verma,
Professor,
Physics Department,
Punjabi University ,
Patiala

Subject: For consideration under Career Advancement Scheme

Sir,

In reference to your letter No. 1495/Physics dated 13-7-2000, you are informed that Vice-Chancellor has ordered that if you want your case to be considered for promotion from Reader to Professor under Career Advancement Scheme then you will have to take back your promotion to the position of Professor. This is because the Career Advancement Scheme is for promotion from Reader to Professor and not from Professor to Professor.

You send your reply to the Establishment branch immediately so that further necessary action be taken.

Faithfully

Sd/-

Registrar

True Translation

Advocate

Punjabi University Patiala

No. 1672-82/Estt/A-8

Dated 23.01.2002

Notification/ Merit Promotion/ 2000/ 5

This is in continuation of the earlier issued Notification/ Merit Promotion/2000/1-4 dated 3-5-2000 and 3-7-2000 by this office.

As per orders of the Vice-Chancellor, the date of promotion of the following teachers as Professors under the statutes of Merit Promotion Scheme (1983) against the overall quota will be 1-4-95 i.e. the date of availability of the quota, through the notification under reference. It is clear that the other terms and conditions of this promotion will be as notified earlier.

1. Dr. Dr. S.D.Gajrani
2. Dr. D.S.Dhillon
3. Dr.G.R.Kataria
4. Dr. Harbans Pathak
5. Dr. H.R.Verma
6. Dr. Surinder Singh Khaira

Sd/-

Deputy Registrar (Estt.)

For Registrar

True Translation

Advocate

Annexure P/9

No. 202/Phy

Dated: 24.1.02

The Registrar,
Punjabi University ,
Patiala

Through: The Head, Department of Physics

Subject: Joining Report

Dear Sir,

This is in reference to the office order No. 1672-82/Estt/A-8 dated 23-01-2002. I do hereby accept the terms and conditions of promotion as indicated in the office order referred to above.

I may be deemed to have joined as Professor w.e.f. 01-04.95.

Thanking you,

Yours faithfully,

Sd/-

(Hem Raj Verma)

Punjabi University , Patiala

Forwarded

Sd/-

Head Department of Physics

(Seal)

True Copy

Advocate

Punjabi University Patiala

No. 5575/Estt/A-8

Dated 28.3.03

Notification/ Merit Promotion/ 2003/ 1

This is in suppression-modification to the earlier Notification/ Merit Promotion/ 2000/5 No.1672-82/Estt/A-8 dated 23.1.2002 issued by this office.

The Vice-Chancellor has cancelled the orders of promotion of the following teachers w.e.f. 1-4-95 after considering the recommendations of the committee constituted for the purpose of considering the issue of promotion from Readers to Professors w.e.f. 1-4-95 against the overall quota under the Merit Promotion Scheme (1983). Regarding the promotion of these teachers, the earlier issued Notification /Merit Promotion/2000/1-4 dated 3-5-2000 and 3-7-2000 will remain in force.

1. Dr. S.D.Gajrani
2. Dr. D.S.Dhillon
3. Dr.G.R.Kataria
4. Dr. Harbans Pathak
5. Dr. H.R.Verma
6. Dr. Surinder Singh Khaira

Sd/-

Deputy Registrar (Estt.)

For Registrar

True Translation

Advocate

PUNJABI UNIVERSITY PATIALA

No. 5606-5706/Estt/A-8

Dated 28-3-2003

Heads of all teaching/research departments

Punjabi University Patiala

Sir/Madam,

A committee has been constituted by the Vice-Chancellor to consider the issue of promotion from Reader to Professor w.e.f 1-4-95 against the overall quota under the Merit Promotion Scheme (1983). The committee is scheduled to meet in the near future. Those teachers of all the teaching/research departments who are eligible for promotion and have given the option under the Merit Promotion Scheme, are informed through this letter that they may please send whatever they want to say in their favor, for promotion w.e.f 1-4-95 under this scheme, in writing so that the same be put before the committee. The concerned teachers will be given the chance to have discussion with the committee.

You are requested to get this letter noted in writing from all the teachers of your department and desired information in writing, as above, from all those who are interested for promotion be got sent within one week from the issuance of this letter.

Sincerely

Sd/- 28/3

Registrar

True Translation

Advocate

Punjabi University Patiala

No. 6085/Estt/A-8

Dated 4/4/2003

Notification/ Merit Promotion/ 2003/ 2

This is in reference to the earlier Notification/ Merit Promotion/ 2003/1
No. 5565-90/Estt/A-8 dated 28.3.2003 issued by this office.

Regarding the notification under reference, the concerned teachers met the Vice-Chancellor and informed him that they were not provided the opportunity to present their view point before issuing the notification. After thoughtful consideration of their request, the Vice-Chancellor has ordered to cancel the notification/Merit Promotion/ 2003/ 1 No. 5565-90/Estt./A-8 dated 28-3-2003 issued by the office in the light of his earlier orders.

Sd/-

Deputy Registrar (Estt.)

For Registrar

True Translation

Advocate

PUNJABI UNIVERSITY PATIALA

No. 9582/Estt/A-8

Dated 13.5.03

Dr. Hem Raj Verma

Professor

Physics Department

Punjabi University Patiala

Subject: Notice regarding review of the earlier issued notification No.1672-82 dated 23-1-2002 in connection with the date of promotion of the promoted professors w.e.f 1-4-95 based on the interview conducted in July 2000 under the Merit Promotion Scheme (1983).

Promoting you as Professor under the Merit Promotion Scheme under notification No. 14477-85/Estt/A-8 dated 3-7-2000, the following conditions were included in this notification:

1. This promotion will be subject to the final decision of C.W.P.14757/99 pending in Punjab and Haryana High Court.
2. xxxxxxxx
3. xxxxxxxx
4. xxxxxxxxxx
5. The date of promotion will be decided afterwards along with other cases. The date of promotion will not depend on the date of selection or the date of notification. This will be decided in accordance with the length of service as per the seniority and other relevant factors as per the rules.

Afterwards as per the orders of the Vice-Chancellor, the date of promotion of 6 Professor, including you, was declared as 1-4-95 through notification No. 1672-82/Estt./A-8 dated 23-1-2002, the approval of which was not taken from the Syndicate and nor this has been ratified by the Syndicate. The audit has also not admitted this notification.

Many of the teachers recruited through direct selections, have raised objections mentioning this notification as ill logical and against the rules, have objected that irrespective of being senior to you and without providing an opportunity to them for promotion, it is illegal to fix the date of promotion of the 6 Professors promoted under this scheme.

Considering their representation, the Vice-Chancellor has appointed a committee under the chairmanship of the Pro-Vice-Chancellor.

In the light of the above, you are requested through this notice that you make your position clear within 7 days from the receipt of this notice that why a review of the notification No.1672-82 dated 23-1-2002 regarding the fixation of your date of promotion as 1-4-95 be not reviewed.

Sd/-

Registrar

True Translation

Advocate

Annexure P/14-T

No. 805/Physics/HRV

Dated 16.5.2003

Registrar Sahib

Punjabi University

Patiala

Subject: Regarding notice for review of the notification No. 1672-82
dated 23-1-2002 in connection with the date of promotion of
the promoted professors w.e.f 1-4-95 based on the interview
conducted in July 2000 under the Merit Promotion Scheme
(1983)

Sir,

I have received your letter No. 9582/Estt/A-8 dated 13.5.2003 regarding the above said subject today i.e. the last working day of the onset of summer vacations. I have objection for reviewing the notification 1672-82/Estt/A-8 dated 23.1.2002 because this notification was cleared by the then Vice-Chancellor and the letter was issued after all legal considerations on different aspects regarding the fulfillment of the eligibility conditions, availability of quota and other conditions regarding promotion, after approval by the University office/consent of the Registrar.

I have to consult my lawyer on legal points regarding notice served by you. Because I am going to Italy and Germany tomorrow i.e. 17.5.2003 for academic work, after getting permission from the University, it is therefore difficult to reply within 7 days. It is requested that I should be

allowed to file the reply within one week after the end of summer vacations (30.6.2003).

For the time being, I need the following information/ documents from the office:

- 1) Are there not about 15 vacancies available w.e.f. 1-4-95 under the Merit Promotion Scheme even after the execution of notification 1672-82/Estt/A-8 dated 23-1-2002 according to which the promotion of 6 Professors (our) has been made?
- 2) I should be provided the seniority list of those teachers, who had been selected by direct recruitment and are senior to me and who had submitted their applications one month prior (i.e. before 1-3-95) to the date of promotion i.e. 1-4-95 under the Merit Promotion Scheme as laid down under the statutes, and who still were not invited for interview inspite of any non-stay by the Hon'ble High Court.
- 3) Has the Hon'ble Punjab and Haryana High Court not stayed the operation of consideration of any teacher for promotion under Merit Promotion Scheme (1983) now? If stay exists, then why you are going for action under review exercise in view of the objection raised by the teachers while it is hypothetical.
- 4) What are the reasons for not considering the notification No. 1672-82/Estt/A-8 dated 23.1.2002 in the syndicate?
- 5) Is there any teacher in the University who happened to be senior to me as Reader and has become Professor under Career Advancement Scheme (1996), is ready to be considered for promotion under Merit Promotion Scheme after resigning from Professorship?

In the light of the above, it is requested that I may please be given one week's time to file the reply after 30.6.2003 and I should be supplied the above information/documents in the meantime.

Thanking you,

Yours sincerely,

Sd/-

(Dr. Hem Raj Verma)

Professor, Physics Department

True Translation

Advocate

Annexure P/15-T

PUNJABI UNIVERSITY PATIALA

(cover)

No. 33573/Estt/A-8

Dated 12.12.03

Dr. Hem Raj Verma
Professor
Physics Department
Punjabi University Patiala

Subject: Regarding reconsideration of the earlier issued notification

No. 1672-82 dated 23-1-2002 in connection with the date of
promotion of the promoted professors w.e.f 1-4-95 based on the
interview under the Merit Promotion Scheme (1983)

Sir/Madam,

Regarding the above said subject, the syndicate in its meeting held on 10-11-2003 has constituted a committee to consider your clarification and other issues in connection with the notice No. 9580-85/Esstt/A-8 dated 13-5-2003 issued by this office. The committee has to hold its meeting on 20-12-2003 at 10 AM in the office of the Dean Academic Affairs.

Regarding the above said subject a representation has also been received from your side. Therefore you are requested to appear before the constituted committee and present your view. You can hand over in writing or the relevant document concerned with the case in your favor.

Sincerely

Sd/-

Asstt. Registrar (Esstt)

For Registrar

True Translation

Advocate

Chairman/ Member,
Syndicate-Committee
Punjabi University
Patiala

Subject: Objection to link the issue of hypothetical promotion of other 24 teachers with our date of promotion in the syndicate- committee meeting to be held on 20-12-2003 in connection with the review of the notification No. 1672-82 dated 23-1-2002 concerning the date of promotion of the six promoted professors w.e.f 1-4-95 based on the interview under the Merit Promotion Scheme (1983)

Sir/Madam,

This is in reference to the letter No. 33573/Estt/A-8 dated 12-12-03 from Asstt. Registrar (Estt.) regarding the subject of reconsidering the date of promoted professors from 1-4-95. I have been asked to appear before the committee and to present my case along with the relevant documents on 20-12-2003 at 10 AM.

I shall present myself before the committee on the said date and time and shall be happy to present the details of my case along with the relevant documents. However, it is pertinent that the committee may please consider the objections raised through this representation before asking the 24 other Professors, laying claim for promotion, to present before the committee:

1. The committee constituted by the worthy Vice-Chancellor had directed the office to issue Notice No. 9580-85/Estt/A-8 dated 13-5-03 which was served to the six promoted teachers. No document/ information was supplied to me by the office against my request dated 16-5-2003 in connection with the above said notice and I could not thus file my reply to this notice. The illegal and malafide decision of the committee (to keep the notification 1672-82 dated 28-3-2003 under abeyance and make it inoperative) by not giving personal hearing to the promoted teachers,

was put up before the Syndicate dated 10-11-2003 for consideration. Since the illegal decision of this committee was not accepted and the present (new) committee has been formed by the Syndicate, the notice/ any other action done by the previous committees is not legally tenable. Thus no illegal action should again be done in haste.

2. A part of the circular No. 5606-5706/Estt/A-8 dated 28-3-2003 from the Registrar addressed to all the Heads of teaching/ research departments reads as follows: "Those teachers of all the teaching/research departments who are eligible for promotion and have given the option under the Merit Promotion Scheme, are informed through this letter that they may please send the facts in their favor, for promotion w.e.f 1-4-95 under this scheme, in writing so that the same be put before the committee." The invited representations from 24 teachers are being used as objections for our date of promotion although they had never raised any objection to the University / court of law even within one year to the above said notification of 23-1-2002.
3. If many of these 22 teachers, promoted as Professors under the Career Advancement Scheme (1996) had given their options for promotion under Merit Promotion Scheme (1983), as is evident from para 2, why the University has promoted them under the CAS (1996) scheme? Thus their promotion as Professors under CAS is illegal and unjust since the option once exercised could not be changed.
4. This committee will not be helpful to promote these 24 teachers w.e.f. 1-4-95 due to the following reasons:

- (a) Hon'ble Punjab and Haryana High Court in its order dated 5-7-2000 has stayed the operation of further filling the posts of professors by promotion under Merit Promotion Scheme.

- (b) Almost all of these 24 teachers are holding the position of Professors. Therefore, these teachers can not be considered for promotion from Professors to Professor even if the stay of the court is vacated. (Please refer to University Letter No. 21667/Estt/A-8 dated 17-10-2000 addressed to the undersigned)
- (c) As per the condition 5(a) at page 75 of statute of the Merit Promotion Scheme (1983) as mentioned in University Calendar Vol.I, these 24 teachers can not be considered for promotion w.e.f. 1-4-95 as none of them has applied one month before their claim (i.e. 1-3-1995).

In the light of the above, it is requested that only the validity of the date of the six promoted teachers be considered and the issue of the promotion of other 24 teachers should not be linked with our date of promotion. This is because their promotion under MPS (1983) is hypothetical and their representations (requested as a result of the decision of the earlier committee chaired by the PVC, whose other decision of cancellation of the notification had been cancelled by the worthy Vice-Chancellor) are time-barred, illegal and unjustified and thus be considered as cancelled.

Thanking you,

Yours sincerely,

(Dr. Hem Raj Verma)

Professor, Physics Department

True Copy

Advocate

Chairman and Members,
Syndicate-Committee
Punjabi University ,
Patiala

Subject: Facts regarding my promotion to the position of Professor w.e.f.
1.4.95 under Merit Promotion Scheme (1983).

Respected Sir/ Madam,

With reference to the letter no.33573/Estt/A-8 dated 12-12-03 from the Asstt. Registrar (Estt.), I present myself before the syndicate-committee today i.e.20-12-2003 and place the following facts before the committee. Although the above said letter refers to the notice No.9580-85/Estt/A-8 dated 13-5-2003 sent as per the decision of the earlier committee appointed by the Hon'ble Vice-Chancellor (whose decision has not been approved by the syndicate), the documents/information desired by the undersigned through letter Nos. 805/Physics/HRV dated 16-5-2003 and 953/Phys dated 8-7-2003 addressed to the Registrar and Deputy Registrar (Estt.) respectively. The facts presented below need to be supplemented/amended by the information yet to be provided by the University . This may thus be treated as interim reply.

Objection to entertain the claims/ complaints of other 24 teachers

After receiving the above said letter, I had submitted a representation to the chairman of the syndicate committee on 16-12-2003 on the subject "Objection to link the issue of hypothetical promotion of other 24 teachers with our date of promotion in the syndicate-committee meeting

to be held on 20-12-03 in connection with the review of the notification No. 1672-82/ Estt/A-8 dated 23-1-2002 concerning the date of promotion of the six promoted professors w.e.f 1-4-95 based on the interview under the Merit Promotion Scheme (1983)".

Since other 24 other teachers have also been invited today by the office to present their viewpoint, it is requested that the syndicate-committee must give its ruling on the issue of listening to the claims of these 24 professors In the light of my objection cited below:

- (i) The representations were invited by the University from the teachers through circular to all the Heads of the Departments on 28-3-2003 and are being used as objections for our date of promotion (although they had never raised any objection to the University / court of law even within one year to the above said notification of 23-1-2002).
- (ii) Many of these teachers have already got promotions as Professors under the CAS (1996) scheme and thus have lost the claim for MPS scheme as they could exercise only one option out of MPS and CAS. On the other hand, if they had exercised their option for MPS, then their promotions under CAS are invalid.
- (iii) This committee will not be helpful to promote these 24 teachers w.e.f. 1-4-95 as **(a)** the Hon'ble Punjab and Haryana High Court in its order dated 5-7-2000 has stayed the operation of further filling the posts of professors by promotion under Merit Promotion Scheme **(b)** Almost all of these 24 teachers are holding the position of Professors and thus can not be considered for promotion from Professors to Professor even if the stay of the court is vacated and **(c)** As per the condition 5(a) at page 75 of

statute of the Merit Promotion Scheme (1983) as mentioned in University Calendar Vol.I, these 24 teachers can not be considered for promotion w.e.f. 1-4-95 as none of them has applied one month prior to their claim for promotion (i.e.1-3-1995).

Justification of my date of promotion as Professor w.e.f.1-4-95

1. I became eligible for promotion from Reader to Professor w.e.f. 1-1-1994 and submitted my bio-data to the University through letter No.1550/Phys/ on 30.12.1993 - Annexure-I (according to the condition prevailing in the Calendar Volume-I, 1987 that the bio-data is to be submitted on 31st of December of the proceeding year).

STATUTES regarding appointment by promotion of Lecturers as Readers and Readers as Professors (w.e.f.1-1-1983)

(vi) Merit Promotion of Lecturer/ Readers (Page 74 to 77 of Punjabi University Patiala Calendar Volume-I 1997)

5. The teachers interested in such assessment and consideration for merit promotion shall:

- (a) Present their bio-data and work (to include research publications, books, reviews, curriculum development teaching aid, innovation in teaching methods, equipment developed etc.) on prescribed proforma atleast one month prior to the date of his/her fulfilling the conditions of eligibility.

In reply to the above application (including biodata and work), the University in its reply dated 13-1-94 informed me through Head of the Physics Deptt. That the quota was not available at that time and the research material will be invited for evaluation when the quota becomes available (Annexure-II).

The quota became available w.e.f.1-4-1995. However, the University did not bother to hold the interview immediately after it was clear that the quota is available although there was no case filed by Dr. D.S.Dhillon against the University at that time.

2. In Punjabi University Patiala, the Readers /Professors appointed through Merit Promotion were at par with the directly recruited Readers/ Professors and the combined seniority list of the teachers appointed through Merit Promotion and through open selection was in force in accordance with the syndicate decision of 7.3.1987 (para 32). The decision of the above said case (Dr. D.S.Dhillon and others versus Punjabi University and others – CWP 14161/1995) was made in 1998. In the light of this decision, the Readers based on the promotion under MPS could not be included in the list of Readers (discriminated as ex-cadre). Reacting to this and equating the appointees under the Merit Promotion Scheme and the direct recruits, the University Syndicate in its meeting on 28.2.1998 passed the following amendment in the Statute 15(1), 15(2), 15(3) of Punjabi University Calendar Vol. I, 1997 pp. 39-40 and statute 6, pp.48 and 49 and sent to the Chancellor for approval on 6.4.1998.

When the University started the process of holding the interviews for the posts of Professors from the list of direct recruited Readers, a CWP 14757 of 1999 (S.M.Vasudeva and others versus Chancellor Punjabi University and others) was filed by the Readers and Professors promoted under the MPS (1983) in the Punjab and Haryana Court based on the decision of the Supreme Court of India (Judgement Today 1999(1) pp.SC1 and SC2) regarding inter-se-seniority of the teachers appointed through

MPS (1983) and direct recruits. The immediate effect of this writ petition was that the amendment in the above statutes proposed by the Syndicate on 28.2.1998 were approved by the Hon'ble Chancellor on 22.3.2000. According to these amendments there is no difference between the direct recruited Professors/ Readers vis-à-vis Professors/Readers appointed through Merit Promotion and the recruitment of Reader/ Professor may also be made by promotion from amongst the Lecturer/ Readers, as the case may be, under Merit Promotion Scheme of the UGC or any other such scheme approved by the Syndicate from time to time and the seniority depends on the length of service in that group i.e. Reader/Professor.

Since the approval of the Statutes is in continuation of the already existing Merit Promotion Scheme (1983) of the UGC adopted by the Punjabi University through Statutes, according to which there was no difference between the direct recruits and the promotes and which got disturbed for a very brief period due to the High Court Judgment (and which is under challenge), the amendment will have retrospective effect due to necessary implications

The University relied on the statutes 15(1), 15(2), 15(3) and 6 of the University Calendar duly approved by the Chancellor on 6.4.98 and the Deans and Heads of various departments were changed according to the common seniority lists of Direct recruits and Merit promotes.

4 In the light of the amendment approved by the Chancellor, the Hon'ble Mr.Justice G.S.Singhvi and Mr.Justice Mehtab S. Gill of the Punjab and Haryana High Court in CWP No.14757 of 1999 directed the University to go ahead to make promotion on the vacant posts of Professors within a period of two months as an interim order issued on 24.3.2000. (Annexure-III A)

5. I along with Dr. B.L.Mehta were called for the interview (but not Dr. Midha and Dr. Sikri as they had not applied for promotion under MPS but are now among 24 Professors laying claim under MPS) for the post of Professor in Physics under Merit Promotion Scheme on 3-7-2000 and I was selected as Professor over and above Dr. Mehta, who happened to be senior to the undersigned as Reader as listed in Annexure 20(A) Syndicate 347 dated 24.10.2000 (Annexure-IV). Since the amendment in the statutes of Merit Promotion Scheme (1983) regarding overall quota proposed by the syndicate has not been approved by the Hon'ble Chancellor, .it can be presumed that I have availed the quota of one position of Professor due to existence of three open selected Readers in the Physics Department in the light of the existing statutes.

Dr. Mehta has become Professor later under CAS(1996) (Item 7, Syndicate 353 dated 23.10.2001). Moreover, five more Readers junior to me in the Physics Department have also been promoted later under CAS(1996) w.e.f. 27.7.98.

6. Although the quota for promotion was available w.e.f 1.4.1995, yet the University Registrar issued the appointment letter No. 14477-85/ Estt./S-8 dated 3.7.2000 (Notification/Merit promotion/2000/2) with conditions 1-5. As per condition 1, this promotion is to be governed by the decision of CWP 14757 of 1999 and as per condition 5, the date was to be fixed along with other cases afterwards with the stipulation, interalia, that my seniority would be fixed in due course. I joined as professor on 3.7.2000 (AN) accordingly as under the MPS (1983), the selected Professors are deemed to be promoted as Professors from

the date the quota is available. This appointment under the MPS (1983) has been approved by the Syndicate 347 (para 34) in its meeting held on 24.10.2000 along with two other cases of promotion i.e. Dr. Harbans Pathak of Public Administration and Dr. Surinder Singh Khaira of Department of Punjabi Development (Annexure-V)

7. Hearing the stay application in CWP 8174 of 2000 filed by Dr. S.D.Gajrani and others versus Punjabi University Patiala, the Hon'ble bench of Punjab and Haryana High Court consisting of Hon'ble Mr. Justice R.S.Mongia and Hon'ble Mr. Justice K.C.Gupta has ordered on July 5, 2000 to maintain the status quo regarding the filling of posts of Professors (Annexure-III B).
- 8 With the introduction of revised grades, the Career Advancement Scheme called CAS (1996), introduced by the UGC, has been adopted by various universities to provide promotional avenues to the teachers. Consequently, the MPS (1983) scheme stands abolished w.e.f 24.12.98 as communicated by University Grants Commission in its letter F.5-1/99(PS) dated 24-2-2000 (Annexure-VI).

The University vide letter No. 14893-953/Estt./S-4 dated 30.7.99 asked for applications up to 16.8.1999 from eligible candidates for promotions to higher positions under CAS (1996) scheme duly adopted by the Syndicate in its meeting on 24-3-1999. Many of the Readers who had opted for MPS scheme were interviewed and selected illegally under the CAS scheme. These teachers have lost their right for promotion under MPS against the vacant quota even if the court stay gets vacated in future.

9. In continuation of the earlier notifications (Notification/ Merit Promotion/2000/1-4 dated 3.5.2000 and 3.7.2000) issued by the University, I was informed by the Deputy Registrar (Estt.) vide letter

No. 1672-82/Estt./S-8 dated 23.01.2002 (Notification/ Merit Promotion/2000/5) that my date of promotion under MPS(1983) has been fixed as 1.4.1995 (Annexure-VII).

The date of 1.4.1995 has been fixed for all the six professors (namely Dr. S.D.Gajrani, Dr. D.S.Dhillon, Dr. G.R.Kataria, Dr. Harbans Pathak, Dr. H.R.Verma and Dr. Surinder Singh Khaira) promoted under Merit Promotion Scheme by the office of the University (including the Establishment branch and the Registrar) and ratified by the then Vice-Chancellor. This date has been decided on the basis of legal aspects by taking into consideration the date of becoming eligible, the application sent by me prior to the date of becoming eligible and the date of quota becoming available etc.

The decision is in continuation to the condition 5 laid down in the earlier notifications according to which the decision regarding the date of promotion was to be made later along with other cases.

10. In response to the office order No. 1672-82/Estt/A-8 dated 23-1-2002, I submitted my joining report (and deemed to have joined as Professor in the Department of Physics w.e.f. 1.4.95) to the Registrar vide letter No. 202/Phys/ dated 24.1.2002 through Head, Department of Physics, which was duly accepted (Annexure-VIII).
11. In another CWP 8174/2000 preferred by Dr. S.D.Gajrani and others versus Punjabi University , the stay has been imposed on 5-7-2000 by the Hon'ble bench of Punjab and Haryana High Court consisting of Mr.Justice R.S.Mongia and Mr.Justice K.C.Gupta to hold the interviews under MPS(1983). Thus the interviews can not be held unless the above writ petition is withdrawn / disposed off. Thus the remaining quota of Professors w.e.f. 1-4-95 stands as such and can

be used by any aspirant/eligible candidate after the restriction by the High court goes.

Conclusion

1. My date of promotion w.e.f. 1.4.1995 was fixed along with five others namely Dr. S.D.Gajrani, Dr. D.S.Dhillon, Dr. G.R.Kataria, Dr. Harbans Pathak and Dr. Surinder Singh Khaira) after about one and half year after our promotion from Reader to Professor under Merit Promotion Scheme (1983) by the office of the University (including the Establishment branch and the Registrar) and ratified by the then Vice-Chancellor. The decision was conveyed on 23-01-2002 through letter No.1672-82/Estt./S-8 (Notification/ Merit Promotion/2000/5) in continuation to the earlier notifications (Notification/ Merit Promotion/2000/1-4 dated 3-5-2000 and 3-7-2000).
- 2 My appointment under the MPS scheme (1983) resulted after proper procedure i.e. submitting the bio-data before the date of eligibility, interview by the selection committee and the selection which has been approved by the University Syndicate 347 dated 24.10.2000 (Item 34).

This date of 1-4-95 was decided by the University on the basis of legal aspects by taking into consideration the date of becoming eligible, the application sent by me prior to the date of becoming eligible and the date of quota becoming available etc. In response to the office order No. 1672-82/Estt/A-8 dated 23-1-2002, I submitted my joining report (and deemed to have joined as Professor in the Department of Physics w.e.f. 1.4.95) to the Registrar vide letter No. 202/Phys/ dated 24.1.2002 through Head, Department of Physics which was duly accepted.

- 3 The decision about the date of 1-4-95 has been considered upright by the University authorities as Dr. S.D.Gajrani was earlier made the

Director Correspondence Courses and Dr. G.R. Kataria has been made Dean of the Language faculty by removing Mrs. Ranjit Kaur on 25-4-2003 in view of their date of promotion as 1-4-1995.

Although every fact regarding the date of promotion is available with the establishment branch of the University yet through this letter I have brought the factual position before you as desired. However, this is subject to amendment as per the information yet to be supplied to me by the University as requested vide my letters dated 16-5-2003 and 8-7-2003.

Thanking you,

Yours faithfully,

Sd/-

Dated 20-12-2003

(Dr. Hem Raj Verma)

Professor, Deptt. of Physics

True Copy

Advocate

Proceedings of the committee dated 20.12.2003 constituted by the Syndicate to consider the issue of promotion of 6 Readers as Professors under Merit Promotion Scheme (1983) against the overall quota with effect from 01.04.1995

Members Present

1. Dean Academic Affairs
2. D.P.I. (Colleges)
3. Professor S.S.Khaira, Law Department
4. Dr. R.K.Sehgal, Professor Incharge (Finance)
5. Sh. B.S.Mander, Principal

Committee was made aware of the Merit Promotion Scheme. The conditions No. 1 and 5 mentioned in the orders of promotion of six teachers (Dr. S.D.Gajrani, Dr. D.S.Dhillon, Dr.G.R.Kataria, Dr. Harbans Pathak, Dr. Hem Raj Verma and Dr. Surinder Singh Khaira) dated 3-5-2000 and 3-7-2000, which have been approved by the Syndicate, were read to the members.

1. This promotion will be subject to the final decision of the CWP 14757/1999 of the Hon'ble Punjab and Haryana High Court .
2. XXX
3. XXX
4. XXX
5. The date of promotion will be decided afterwards alongwith such other cases. The date of promotion will not depend on the date of selection or the date of notification. It will be determined according to the length of service of the direct recruited teachers and teachers promoted under Merit Promoted Scheme (1983).

After this the Vice-Chancellor passed orders on 23-1-2002 fixing the date of promotion of these six teachers as 1.4.95. These orders are not

approved by the syndicate. The committee was constituted to review these orders. The teachers promoted under Merit Promotion Scheme (1983) and teachers promoted under Career Advancement Scheme (as per the list attached) were given full opportunity to hearing.

The representations given by these teachers, the recommendations of meeting held under the chairmanship of the P.V.C, the recommendations of the committee constituted by the Vice-Chancellor dated 8-9-2003 headed by the Dean Academic Affairs, and in the light of the conditions laid down in the promotions of the 6 teachers, the committee considered the condition No.5 of the notification. The replies in response to the notice No. 9580-85/Estt/A-8 dated 13-5-2003 issued to the concerned teachers regarding the fixing of the date of promotion as 1-4-95 through notification No.1672-82 dated 23-1-2002 based on the interviews conducted on 25-10-99 and 3-7-2000 for these promoted professors, were considered in detail. The joint representation sent by other teachers who had opted for Merit Scheme(1983) and who have not yet got the promotion and some of whom are senior to the above named teachers, that they should be promoted with effect from 1-4-95, was also brought to the notice of the committee. Apart from this, the representations given by the directly recruited Professors who have given the option under Merit Promotion Scheme (1983), were also brought to the notice of the committee. These teachers demand that they have been selected through direct selection before 27-7-98 and after 1-4-95 and if these six professors are promoted w.e.f. 1-4-95 then they will become senior to them. All these teachers (according to list) were heard in detail.

The quota under Merit Promotion Scheme (1983) can not be filled as the Hon'ble Punjab and Haryana High Court has stayed the filling of vacancies on 5-7-2000 in CWP 8174/2000

“It is interalia contended that even if it is held that the amendment as reflected in Ann. P-2 has come into force and is valid, yet the vacancies of the posts of Professor which were in existence prior to the amendment have to be filled according to the unamended statute.

Notice of motion for July 12, 2K

Status quo as it exists today regarding the filling of the posts of professors be maintained.”

As a result of the stay order, the fixed interviews were to be cancelled. The posts of Professors can not be filled under the Merit Promotion Scheme (1983). Therefore the date of promotion of the above professors can not be fixed as per the condition number 5.

After consultation, the committee has arrived at the conclusion that although it is not possible to fix the date of promotion of these teachers yet some date has to be fixed as interim measure. But this date should be such that the seniority of all the teachers be not adversely affected. Therefore the committee recommends that the date of promotion for these teachers be fixed as 27-7-98 which is the cut-off date for promotion under Career Advancement Scheme. With this no teacher will be adversely affected in seniority. But this is made clear that this arrangement will be subjected to the decision of the concerned case in the Punjab and Haryana High Court.

Sd/- D.P.I (Colleges)

Sd/- Dean Academic Affairs
(Chairman)

Sd/- (Dr. S.S.Khaira)
Professor, Law Deptt.

Sd/- (R.K.Sehgal)
Professor Incharge, Finance

Sd/- B.S.Mander) Shaheed Kanshi Ram Memorial Degree College
Bhago Majra (Kharar) Distt. Ropar

True Translation

Advocate

29. To consider the recommendations of the committee meeting (Anexure-21) held on 20-12-2003 constituted by the syndicate dated 10-11-2003 (Para-13) to consider the issue of promotion given to 6 Readers as Professors with effect from 1-4-95.

Note:

1. Syndicate in its meeting dated 10.11.2003 (Para-13) decided that the committee is constituted to consider all the aspects in detail and also decided that committee should issue notice to all the effected teachers and submit the recommendations after giving personal hearing.
 1. Dean Academic Affairs (Chairman)
 2. D.P.I. (Colleges), Punjab
 3. Professor S.S.Khaira, Law Department
 4. Dr. R.K.Sehgal, Professor Incharge (Finance)
 5. Principal B.S.Mander
2. The above committee considered the case of 6 Readers promoted as Professors w.e.f 1-4-95. Five teachers present (Dr. S.D.Gajrani, Dr. D.S.Dhillon, Dr. G.R.Kataria, Dr. Hem Raj Verma and Dr. Harbans Pathak) out of these 6 teachers were given personal hearing. Other 24 teachers effected under this scheme were called after issuing the notice, out of whom 19 teachers were given personal hearing (Annexure-22) and the representation received from Dr. Avtar Singh (Annexure-23) was also considered.

3. Vice-Chancellor has ordered to place the recommendations of the committee dated 20.12.2003, which are as follows, to be placed before the syndicate for consideration:

“The committee has arrived at the conclusion that although it is not possible to fix the date of promotion of these teachers yet some date has to be fixed as interim measure. But this date should be such that the seniority of all the teachers be not adversely affected. Therefore the committee recommends that the date of promotion for these teachers be fixed as 27-7-98 which is the cut-off date for promotion under Career Advancement Scheme. With this no teacher will be adversely affected in seniority. But this is made clear that this arrangement will be subjected to the decision of the concerned case in the Punjab and Haryana High Court.”

4. The legal opinion from the legal consultant of the University is available at Annexure-24.

True Translation

Advocate

Punjabi University Patiala

Meeting Notice

The meeting of the Post-graduate studies in Physics is scheduled to be held on 28-2-2003 at 3-00 pm in the office of the Head, Department of Physics.

Members are requested to attend the meeting.

(Agenda)

(1)

(2)

(3)

Sd/-

Deputy Registrar (Meetings)

No. 1021-40/A.M.2

Dated 17-2-2003

Copy of the above to

Dr. S.P.S.Virdi (Chairman)

Head, Physics Department

Dr. B.R.Sood, Professor Physics Department

Dr.H.R.Verma, Professor Physics Department

Dr. J.M.Midha, Professor Physics Department

Dr. R.C.Verma, Professor Physics Department

Dr. A.K.Sikri, Professor Physics Department

Dr. B.L.Mehta, Professor Physics Department

Dr. K.L.Allahwadi, Professor Physics Department

Dr. Randhir Bahri, Professor Physics Department

Dr. Buta Singh, Professor Physics Department

Dr. A.K.Dham, Professor Physics Department

Dr. Balwant Singh Salaria, Reader Physics Department

Dr. Darshan Singh, Reader Physics Department

Professor Nirmal Singh, Physics Department, Panjab University

Chandigarh (Subject Expert)

Professor Kulwant Singh, Physics Department, Guru Nanak Dev

University Amritsar (Subject Expert)

Dean Student Welfare: xxxxxxxxxxxxxxxx

Head (Chairman) Physics Department: xxxxxxxxxxxxxx

Assistant Registrar (Accounts) xxxxxxxxxxxxxxxxxxxx

True Translation

Advocate

Punjabi University Patiala

No. 28293-28423/Estt/A-8

Dated 29-9-2003

Office Order

As per the orders of the Vice-Chancellor, Dean Faculty of Physical Sciences is appointed as Head of the Physics Department from 1-10-2003 till further orders.

Sd/-

Deputy Registrar (Establishment)

For Registrar

Copy to:

1. Dean Academic Affairs
2. Heads of all Teaching/Non-teaching departments/branches for information
3. Dean Faculty of Physical Sciences
4. Dr. S.P.S.Virdi, Professor Physics Department and Dean Faculty Of Physical Sciences
5. Superintendent (Syndicate, Recruitment, Meetings, Thesis Sections)
6. Incharge Research Cell

True Translation

Advocate

Annexure P/22-T

Respected Vice-Chancellor,
Punjabi University ,
Patiala

By Hand

Sub:- Regarding appointment of Head of Physics Department.

Ref:- Office order no. 28293-28423/Estt/A-8 dated 29.09.2003.

Sir,

The University had issued notification/merit promotion/2000/5 dated 23.01.2002 according to which 6 teachers including myself were given promotion with effect from 01.04.1995 under the merit promotion scheme (1983). Like others, I have joined on this position w.e.f. 01.04.1995.

From the list of 6 Professors the University in its order 3435/S.Cansti./ dated 25.04.2003 has appointed Dr. Kataria as Dean Languages considering senior to Dr. Ranjeet Kaur Kapoor. Since the appointment of Deans and Heads is made by considering the mutual seniority of Professors, therefore it is clearly my term to be Head of the Physics Department similar to the case of Dr. Kataria.

The order issued by the office under reference according to which the Dean Physical Science Faculty has been appointed as Head of the Physics Department is illegal and discriminatory. It is therefore requested that I may be made the Head of the Department modifying the above referred orders.

Thanking you,

Yours faithfully

Dated 01.10.2003

(Hem Raj Verma)

Professor Physics Department

True Translation

Advocate

Punjabi University Patiala

No. 1-26/Sp./Estt/A-8

Dated 01.01.2004

Notification/ Merit Promotion/ 2004/ 1

This is in suppression to the earlier notification no. 1672-82/Estt./A-8 dated 23.01.2002 and Notification/Merit Promotion/ 2003/1 No.5565-90/Estt/A-8 dated 28.03.2003 issued by this office.

Syndicate in its meeting dated 01.01.2004 accepted the recommendations of the committee constituted in its meeting dated 10.11.2003 (Para -13), which are as follows:-

“Although it is not possible to fix the date of promotion of these teachers yet some date has to be fixed as interim measure. But this date should be such that the seniority of all the teachers be not adversely affected. Therefore the committee recommends that the date of promotion for these teachers be fixed as 27-7-98 which is the cut-off date for promotion under Career Advancement Scheme. With this no teacher will be adversely affected in seniority. But this is made clear that this arrangement will be subjected to the decision of the concerned case in the Punjab and Haryana High Court.”

As per the above decision of the Syndicate, the date of promotion of the following teachers under reference to the referred notifications will be 27.07.1998 under the overall quota as per the statutes of the merit

promotion scheme (1983). It is clear that the remaining conditions to this promotion will be the same as mentioned earlier.

1. Dr. S.D.Gajrani
2. Dr. D.S.Dhillon
3. Dr.G.R.Kataria
4. Dr. Harbans Pathak
5. Dr. H.R.Verma
6. Dr. Surinder Singh Khaira

Sd/-

Registrar

Copies to:

1. Head _____ Department
2. (Relevant teacher) – Dr. Hem Raj Verma, Professor Physics Deptt.
3. Chief Coordinator (Examinations)
4. Finance Officer
5. Assistant Registrar (General)
6. Superintendent (Syndicate, Meetings, Recruitment & Budget)
7. Assistant (Establishment) –4
8. Personal Files

True Translation

Advocate

Punjabi University Patiala

No. 18-137/Estt/A-8

Dated 1-1-2004

Office Order

Under the rules of headship by rotation, Dr. R.C.Verma, Professor Physics Department has been appointed Head of the department for three years from 1-1-2004 as per the orders of the Vice-Chancellor.

Sd/-

Deputy Registrar (Establishment)

For Registrar

Copy to:

1. Dean Academic Affairs
2. Heads of all Teaching/Non-teaching departments/branches for information
3. Dean Faculty of Physical Sciences
4. Dr. R.C.Verma, Professor Physics Department
5. Superintendent (Syndicate, Recruitment, Meetings, Thesis Sections)
6. Incharge Research Cell

True Translation

Advocate

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. /2004

Dr. Hem Raj Verma, S/o Shri Sant Ram, Professor, Department of Physics,
Punjabi University , Patiala. Petitioner

Versus

Punjabi University and anr. Respondents

I N D E X

Sr. No.	Particulars	Date	Pages
1.	Civil Writ Petition	19.01.2004	1-29
2.	Affidavit	19.01.2004	30
3.	Annexure P/1 (Letter)	29.12.1993	31
4.	Annexure P/2 (Letter)	13.01.1994	32
5.	Annexure P/3 (Letter)	03.05.2000	33
6.	Annexure P/4 (Proceedings)	03.07.2000	34
7.	Annexure P/4-A (Order)	03.07.2003	35-36
8.	Annexure P/5 (Proceedings)	24.10.2000	37-38
9.	Annexure P/6 (Representation)	13.07.2000	39-40
10.	Annexure P/7 (Letter)	17.10.2000	41
11.	Annexure P/8 (Notification)	23.01.2002	42
12.	Annexure P/9 (Joining Report wef 1.4.95)	24.01.2002	43
13.	Annexure P/10 (Notification)	28.03.2003	44
14.	Annexure P/11 (Letter)	28.03.2003	45
15.	Annexure P/12 (Notification)	04.04.2003	46

16.	Annexure P/13 (Letter)	13.05.2003	47-48
17.	Annexure P/14 (Reply)	16.05.2003	49-51
18.	Annexure P/15 (Letter)	12.12.2003	52
19.	Annexure P/16 (Objections)	20.12.2003	53-55
20.	Annexure P/17 (Reply)	20.12.2003	56-65
21.	Annexure P/18 (Proceedings)	20.12.2003	66-68
22.	Annexure P/19 (Proceedings)	01.01.2004	69-70
23.	Annexure P/20 (Notice of Meeting)	17.02.2003	71-72
24.	Annexure P/21 (Order)	29.09.2003	73
25.	Annexure P/22 (Representation)	01.10.2003	74
26.	Annexure P/23 (Notification)	01.01.2004	75-76
27.	Annexure P/24 (Order)	01.01.2004	77
28.	Power of Attorney	19.01.2004	78

Notes:

1. The law points involved in the writ petition are canvassed in para 18.
2. Relevant statute: Constitution of India
Punjabi University Act 1961 with Schedule, Statutes and Regulations.
3. Similar case: No
4. Whether caveat has been filed: No

(D.R. Bansal)

Advocate

Counsel for Petitioner

DATES AND EVENTS

The petitioner joined the respondent University as Lecturer in the Department of Physics in 1980 and was promoted as Reader with effect from 01.01.1986. Under the statutory Merit Promotion Scheme 1983 the petitioner was entitled to be promoted as Professor on completion of 8 years service as Reader.

Being eligible for promotion and as required under the scheme the petitioner applied for promotion on 30.12.1993 alongwith requisite information. His application was returned vide letter dated 13.01.1994 saying that presently no quota for promotion is available and whenever quota for promotion from the post of Reader to Professor will be available the requisite information will be called for.

In the mean time there was some dispute regarding consideration of Reader to the post of Professor under MPS Scheme and the respondent University wanted to frame seniority list of only direct recruited Readers for promotion to the post of Professor, the petitioner alongwith others filed CWP No.14757 of 1999 challenging the action of the respondents and seeking promotion as the merit promotion was also a source for filling up the posts and the promotion under MPS was a statutory promotion. This Hon'ble High Court on 24.03.2000 passed an interim order directing the respondents to make promotion on the vacant posts of Professor within two months.

The respondents vide P/3 asked for the requisite information which was supplied well in time and the case of the petitioner alongwith others

was considered by the selection committee and the petitioner was promoted. Order of promotion was issued vide P/4-A on 03.07.2000 and the matter was approved by the Syndicate on 24.10.2000.

On 13.07.2000 the petitioner also applied for promotion under CAS as the date of promotion of the petitioner under MPS vide P/4-A was subject to the result of writ petition. The application of the petitioner was returned on the ground that if the petitioner's case is to be considered under CAS, he has to first forego his promotion as Professor under MPS.

Thereafter vide notification dated 23.01.2002 the petitioner and others were granted promotion with effect from 01.04.1995 as the quota for promotion to the post of Professor became available from that date under MPS. The petitioner immediately submitted his joining report as Professor with effect from 01.04.1995 which was accepted by the respondent University. On 28.03.2003 all of a sudden declared that the promotion of the petitioner and others will be effective from the date of promotion and not from 01.04.1995. And also on the same date asked for objections if any one has any objection for giving promotion under MPS with effect from 01.04.1995. When the petitioner met the Vice-Chancellor as to how his date of promotion could be changed, the notification dated 28.03.2003 changing the date of promotion from 01.04.1995 to 03.07.2000 was withdrawn vide P/12 dated 04.04.2003.

The objections were invited from the petitioner as to why his date of promotion be not changed (P/13). The petitioner asked for relevant information vide P/14 which was never supplied. Thereafter vide P/15 the

petitioner was asked to appear before a committee on 20.12.2003 for submitting his case. The petitioner submitted objections and his interim reply as the relevant information was not supplied to the petitioner. The committee without considering the facts brought to its notice vide P/16 & P/17 and without passing any speaking order on P/16 and P/17 recommended vide P/18 to change the date of promotion from 01.04.1995 to 27.07.1998. The matter was placed before the Syndicate in its meeting held on 01.01.2004 and the Syndicate without application of mind to the facts brought on record by the petitioner vide P/16 and P/17 approved the recommendations of the committee vide P/19. It may be seen that the Syndicate itself stated that the date of promotion cannot be changed even then the date of promotion was changed.

The petitioner is being condemned and his date of promotion is being arbitrarily being changed to mar his career and block his appointment to the post of Head, Dean, Member of Syndicate and Senate etc. The respondent no.2 who was appointed in October/November 1995 against the promotion of petitioner with effect from 01.04.1995 and the respondent no.2 was always ranked junior to petitioner, has been illegally appointed as Head of Physics Department vide P/24.

Hence, this writ petition.