



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

LPA-18-2017

Reserved on November 05, 2024

Pronounced on: November 12, 2024

Jarnail Singh

.....Appellant

vs.

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sanjeev Sharma, Advocate, for the appellant.

Mr. Maninder Singh, Sr. DAG, Punjab

SUDEEPTI SHARMA J.

1. The present Letters Patent Appeal under Clause-X of the Letters Patent Act, is preferred against the judgment dated 24.05.2016 passed by the learned Single Judge of this Court in CWP No. 7156-2015.

2. Brief facts of the case as stated in the Civil Writ Petition are that the appellant/petitioner was initially recruited to the Post of Clerk with the respondent-department and was promoted as Sr. Assistant on 28.12.1999. Subsequently, he was promoted to the post of Supdt. Grade-II after completion of 14 years of service, vide order dated 16.04.2013. The petitioner-appellant was then retired from service after attaining the age of superannuation, vide order dated 29.07.2013. The petitioner/appellant was aggrieved from the order dated 30.07.2013, vide which he was reverted from the post of Supdt. Grade II to the post of Senior Assistant and he then filed CWP No. 7156-2015 and the same was dismissed, vide impugned judgment dated 24.05.2016. Hence, the present appeal.

**SUBMISSIONS OF THE COUNSELS FOR THE PARTIES**

3. Learned counsel for the appellant/petitioner contends that he was promoted to the post of Supdt. Grade II, vide order dated 16.04.2013 and he stood retired on 31.07.2013. However, the impugned order dated 30.07.2013 was issued after the date of his retirement, therefore, the same is bad in the eyes of law. He prays that the present appeal be allowed.

4. Learned counsel for the appellant/petitioner has relied upon judgment of Hon'ble the Supreme Court of India passed in a case of ***State of Punjab vs. Amar Singh Harika, 1966 AIR SC 1313***, wherein Hon'ble the Supreme Court has held that mere passing of an order is not effective unless it is published and communicated to the officer/official concerned.

5. *Per contra* learned State counsel for the respondents argues on the lines of the judgment dated 24.05.2016 passed by the learned Single Judge and contends that the impugned order dated 30.07.2013 was rightly passed by the respondent-department.

6. We have heard learned counsel for the parties and perused the whole record of the case.

7. Before proceeding further, it is necessary to reproduce the order dated 16.04.2013 whereby the appellant was promoted and certain conditions were stipulated in the order, which reads as under:-

“1. These promotions shall be subject to the probation for one year.

2. That promotion of the official at Sr. No. 1 Smt. Alka Senior Assistant to the post of Superintendent Grade-II is made on notional basis from the date (i.e from 04.03.2013) on which her junior



official Smt. Sushma Devi was promoted to the post of Superintendent Grade-II

3. With the promotion of Smt. Alka, Senior Assistant to the post of Superintendent Grade-2 from back date on notional basis, in the previously issued orders of promotion, the promotion of junior most official Smt. Krishna Batra, as Superintendent Grade II shall be applicable against the vacant post of Superintendent Grade-II with effect from 29.3.2013.

4. These promotions shall be subject to the outcome of the Civil Writ Petition No. 4254/2000 Dwarka Dass Abrol (retired as Superintendent) and others versus State of Punjab pending in the Hon'ble Punjab & Haryana High Court.

5. These promotions can be reconsidered if any change is made in the seniority of the officers or any administrative necessity arises in view of the policy to be framed by the Punjab Government in the light of the decision of the Hon'ble Supreme Court dated 19.10.2006 rendered with regard to the 85th amendment of the Constitution.

6. These promotions shall be subject to the decision on the departmental proceedings pending against Shri Ravinder Singh, Senior Assistant, Shri Prem Nath Jindal, Senior Assistant and Smt. Savita Rani, Senior Assistant under Rule 8 and 5 of the Civil Services (Punishment & Appeal) Rules, 1970 for giving major punishment. Therefore the names of these officials are kept in a 'sealed cover' as per instructions issued by the Government of Punjab, Department OF Personnel vide letter No. 3/27/97- 3PP-1/2087 dated 27.2.1998. After the decision in favour of these



employees, they will be promoted on notional basis from the date from which their junior official has been promoted and the junior most employee shall be reverted.”

ANALYSIS OF THE RECORD

8. A perusal of the record shows that the appellant was promoted to the post of Supdt. Grade-II, vide order dated 16.04.2013 and his promotion was conditional, as referred to above, wherein, it has been specifically mentioned that promotion shall be subject to the decision on the departmental proceedings pending against Shri Ravinder Singh, Senior Assistant, Shri Prem Nath Jindal, Senior Assistant and Smt. Savita Rani, Senior Assistant under Rule 8 and 5 of the Civil Services (Punishment & Appeal) Rules, 1970 for giving major punishment. After the decision came in favour of the above employees, they were promoted on notional basis from the date from which their junior officials were promoted and the junior most employee (i.e appellant) was reverted. This order of the promotion of the appellant dated 16.04.2013 was conditional and his automatic reversion after the decision came in favour of his seniors, was already informed to him, in the order of his promotion itself i.e 16.04.2013. A perusal of the record further shows that the appellant is reverted, vide order dated 28.06.2013, wherein para 6 of the conditions of promotional order dated 16.04.2013 is specifically mentioned. This order is communicated to the appellant on 30.07.2013. The appellant is relying upon his retirement order dated 29.07.2013, communicated to him on 30.07.2013 by stating that he stood retired on 30.07.2013 and his reversion order is also passed on 30.07.2013.

9. The contention of learned counsel for the appellant is not as per record. Since the record shows that vide order dated 29.07.2013, the appellant



was ordered to be retired from Government service on attaining the age of superannuation w.e.f. 31.07.2013 (A/F).

10. Reference at this stage can be made to order dated 29.07.2013 and order dated 30.07.2013 (which was modified). The same reads as under:-

DIRECTORATE OF INDUSTRIES & COMMERCE, PUNJAB
DIRECTORATE
OFFICE ORDER

Shri Jarnail Singh, Superintendent Grade-2 is hereby retired from Government service on attaining the age of superannuation with effect 31.7.2013 (A.N.)

It is also made clear that if any complaint/enquiry comes to the notice of the office/Government against the officer, then action shall be taken against him as per the instructions/Rules.

DATED:CHANDIGARH

KARAN A.SINGH,IAS

29.7.2013

Principal Secretary Industries & Commerce Punjab

Endst. No. Admn/1/3/A-2/4203/2452

Dated 30.7.13

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

- 1. Accountant General, Punjab, Chandigarh.*
- 2. Joint Controller (F&A).*
- 3. District Treasury Officer, Punjab, Chandigarh.*
- 4. Assistant Director (Admn.)*
- 5. Pension Assistant.*
- 6. Shri Jarnail Singh, Superintendent Grade-2*



7. Assistant-6 (Account Branch)

Sd/-
Assistant Director (Admn.)
for Director of Industries & Commerce, Punjab

DIRECTORATE OF INDUSTRIES & COMMERCE.PUNJAB

OFFICE ORDER

Shri Jarnail Singh, was ordered to be retired from Government service as Superintendent Grade-2 with effect 31.7.2013 (A.N.) vide office order issued under Endst No. A.1/3/A-2/4203/2450 dated 30.7.2013.

With the promotion of Smt. Savita Rani, Senior Assistant vide office order issued under Endst.No. Admn1/A- 2/Supdt.Grade-2/Promotion/8428-B dated 30.7.2013 as Superintendent Grade-2, Shri Jarnail Singh has been reverted from Superintendent Grade-2 to the post of Senior Assistant. Therefore by modifying the earlier orders, Shri Jarnail Singh is hereby retired from Government Service as Senior Assistant w.e.f. 31.7.2013 (AN) on attaining the age of superannuation.

It is also made clear that if any complaint/enquiry comes to the notice of the office/Government against the officer, then action shall be taken against him as per the instructions/Rules.

DATED:CHANDIGARH

KARAN A.SINGH,IAS

30.7.2013

Principal Secretary Industries & Commerce Punjab

Endst. No. Admn/1/3/A-2/4203/2454 Dated 30.7.13



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

- 1. Accountant General, Punjab, Chandigarh.
- 2. Joint Controller (F&A).
- 3. District Treasury Officer, Punjab, Chandigarh.
- 4. Assistant Director (Admn.)
- 5. Pension Assistant.
- 6. Shri Jarnail Singh, Senior Assistant
- 7. Assistant-6 (Account Branch)

Sd/- Assistant Director (Admn.)
for Director of Industries & Commerce, Punjab”

11. Therefore, it is very clear from the record that the appellant/petitioner was rightly retired from service w.e.f. 31.07.2013 (A/F) on attaining the age of superannuation as Sr. Assistant. So far as the judgment relied upon by learned counsel for the appellant is concerned, the same would not be applicable to the facts and circumstances of the present case, as the facts of that case are distinguishable from the facts of the present case.

12. Therefore, we do not find any infirmity in the impugned judgment dated 24.05.2016 passed by the learned Single and the same is upheld.

13. Accordingly, the present appeal is **dismissed** being devoid of any merit.

14. All the pending applications, if any, also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

November 12, 2024
G Arora

Whether speaking/reasoned : Yes
Whether reportable : Yes