

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP no.12949 of 1993 (O&M)

Prem Kanta and another

....Petitioners

Versus

State of Punjab and others

...Respondents

2. CWP no.3073 of 1995 (O&M)

Gurbachan Singh

....Petitioners

Versus

State of Punjab and others

...Respondents

Date of Decision : 21.01.2015

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

- 1)Whether reporters of local newspapers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

Present : Mr.Amit Chopra, Advocate for the petitioners
in CWP no. 12949 of 1993

None for petitioners in CWP no. 3073 of 1995.

Mr. Nilesh Bhardwaj, DAG, Punjab

MAHESH GROVER, J.

This order will dispose of two writ petitions bearing CWP no. 12949 of 1993 and 3073 of 1995.

In CWP no. 12949 of 1993 the petitioners pray for promotion to the post of Tehsil Welfare Officer. They were appointed as Clerks in the year 1974. Petitioner no.1 was promoted as Assistant in the year 1985 and then Sr. Assistant in the year 1986 whereas petitioner no.2 was promoted as Accountant in the year 1984. It is the specific case of the petitioners that

they continue to work substantially as Clerks even after promotion and thus were entitled to be promoted as Tehsil Welfare Officer in terms of Annexure P-1 issued by the State Government in the year 1988 whereby Clerks, Stenographers and Steno Typists form the feeder cadre for promotion to the post of Tehsil Welfare Officer.

It is the pleaded case of the petitioners that prior to these instructions, general practice was to take into consideration the cases of the Sr. Assistants and Accountants for promotion to the post of Tehsil Welfare Officer and it is only because of these instructions in 1988 that feeder cadre was restricted to Clerks/Stenographers and Steno Typists. According to the petitioners these instructions were withdrawn in 1999 and therefore, the original position of consideration being awarded to the Senior Assistants and Accountants would revive.

It is thus the case of the petitioners that after July, 1999 they would be entitled to be considered for promotion. In support of their claim they have cited case of one Chhinder Pal who was junior to petitioners and was working as Assistant and yet considered for promotion to the post of Tehsil Welfare Officer.

In CWP no. 3073 of 1995, the petitioner was appointed as Clerk in the year 1974 and was promoted as Senior Clerk in 1979 and then as Assistant on adhoc basis in 1985 with a condition that he will be placed in the seniority of Assistants and Senior Assistants after passing of Assistant Grade Examination. He opted not to avail the promotion of Assistant/Sr. Assistant and desired to be promoted as Tehsil Welfare Officer. None has appeared on behalf of the petitioner to assist this Court on his behalf.

The respondents have justified the promotion of this officer

namely Chhinder Pal on the ground that in the year 1988 he was working as Clerk whereas petitioners stood promoted as Senior Assistants and Accountants in the pay band which is higher than that of Tehsil Welfare Officer and after distinguishing their case from the said officer, their claim for promotion was declined.

During the course of hearing, learned counsel for the petitioners (in CWP no. 12949 of 1993) repeatedly asserted that prior to the instructions of 1988 Senior Assistants and Accountants formed one of the feeder channels for promotion to the post of Tehsil Welfare Officer. He has further submitted that a separate application bearing no. 28565 of 2000 has been filed wherein this assertion of the petitioner has been admitted by the respondents. This contention is far from truth. There is no such admission by the respondents rather their consistent stand is that since the petitioners were promoted as Sr. Assistant and Accountants who were having a higher pay structure than that of Tehsil Welfare Officer could not be considered for promotion. No rules or material has been shown from where it can be inferred that Senior Assistants and Accountants can be considered for promotion to the post of Tehsil Welfare Officer. The only case cited by the petitioners in support of their case is that of Chhinder Pal whose case can safely be distinguished from that of the petitioners and in this regard reply of the respondents cannot be termed to be unjust. If the petitioners were already in the higher pay structure of Senior Assistants and Accountants at the time of consideration and then merely because pay structure of Tehsil Welfare Officer came to be higher at a subsequent point of time would not entitle the petitioners to press their claim for promotion as such. The petitioners would have been at liberty to show adequate rules and

instructions to verify his submission that prior to 1988 Senior Assistants and Accountants did form a part of the feeder channel to the post of Tehsil Welfare Officer but the same has not been done. Therefore, in the absence of any material to this effect this Court cannot accept the prayer of the petitioners. Hence, dismissed.

January 21, 2015
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(MAHESH GROVER)
JUDGE