

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision: 28.01.2015

1. CWP No.160 of 1997(O&M)

Sandeep Bahl ... Petitioner

Versus

Punjab Pollution Control Board and others ... Respondents

and

2. CWP No.868 of 2013 (O&M)

Sandeep Bahl ... Petitioners

Versus

Punjab Pollution Control Board and others ... Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Aalok Jagga, Advocate
for the petitioner.

Ms. Harpreet Athwal, Advocate
for Ms. Rita Kohli, Sr. Advocate
for the PPCB

Mr. Rajiv Atma Ram, Sr. Advocate
with Mr. A. P. Atma Ram, Advocate
for respondents No.2 and 3

Harinder Singh Sidhu, J.

The petitioner was appointed as Junior Environmental Engineer in respondent-Board on 13.11.1985. The next promotional post was Assistant Environmental Engineer.

It is the case of the petitioner that services of the petitioner are governed by Punjab State Board for Prevention and Control of Water

Pollution Employees Service Regulations 1980 (hereinafter, referred as the “1980 Regulations”). As per Regulation 13, all promotions to posts shall be made on the basis of Merit-cum-Seniority and no person shall have right to any post on the basis of seniority alone.

At the 55th meeting of the Board held on 16.02.1987, the Board resolved to amend and replace the 1980 Regulations by the Punjab Pollution Control Board Employees Services Regulations, 1987 (hereinafter referred to as the “1987 Regulations”)

As per Section 12 (3A)(b) of Water (Prevention and Control of Pollution) Act, 1974, no regulations made by a State Board shall be effective until approved by the State Government. However, without the approval having been granted, the 1987 Regulations were applied by the respondent-Board for the purpose of promotions to the post of Assistant Environmental Engineer made in the year 1988 and 1989.

As the petitioner was not eligible for the promotion to the post of Assistant Environmental Engineer in terms of the 1987 Regulations, he was not considered for promotion in the year 1987 and 1988. He was promoted as AEE only on 17.07.1991 when he qualified as per the 1987 Regulations.

The issue of the applicability of the 1987 Regulations was settled by a Division Bench of this Court in CWP No.19638 of 1996 decided on 30.07.1997. It was held that as 1987 Regulations had not been approved by the State Government in terms of the Section 12 (3A)(b) of Water (Prevention and Control of Pollution) Act, 1974 they had no force and could not be relied upon. A review filed thereagainst was also dismissed and the Board was directed to comply with the directions issued earlier.

Meanwhile, the respondent-Board had circulated tentative seniority list of Assistant Environmental Engineers on 15.12.1995 in which the date of promotion of the petitioner was mentioned as 17.07.1991. The petitioner filed objections to the said list on 21.12.1995 contending that 1987 Regulations had no force of law and the petitioner should be granted promotion w.e.f., 1988 by applying the 1980 Regulations and that seniority list be recast in accordance with the 1980 Regulations. Having received no positive consideration, the petitioner filed CWP No.160 of 1997 praying for directions to the respondents to take a decision on his objections. Vide order dated 1.11.1997 passed in the aforesaid writ petition, the competent authority was directed to take a final decision on the tentative seniority list dated 15.12.1995 after considering objections raised by the petitioner and other affected employees. A specific direction was given that while finalizing the seniority list the competent authority shall take into consideration the judgment rendered in CWP No.19237 of 1996 titled as 'Rajesh Kumar Vs. Punjab Pollution Control Board'.

Pursuant to the aforesaid direction, order dated 29.12.1997 was passed which is annexed as Annexure P-11 in CWP No.160 of 1997. Vide this order, the objections filed by the petitioner against the tentative seniority list were rejected. The petitioner subsequently amended CWP No. 160 of 1997 to lay challenge to the order dated 29.12.1997.

Meanwhile, in another CWP No.3630 of 1998 which was decided on 29th March, 2012 it was reiterated that the 1987 Regulations having not been approved by the State Government had no legal force and that the 1980 Regulations continued to hold the field. Directions were issued to the

Principal Secretary, Government of Punjab, Department of Environment to hear the petitioners and respondents in that case and all other affected persons, and thereafter determine their inter-se seniority by passing a reasoned order in the light of the observations made in the decision.

The petitioner filed representation before the Principal Secretary, Department of Science and Technology, again raising the same claim that he was entitled to be considered for promotion in 1988 and 1989 as per the 1980 Regulations. In response to the the representations filed by the petitioner and other affected persons, an order dated 12.11.2012 which is Annexure P-12 (in CWP No.898 of 2013) was passed by the Principal Secretary, Government of Punjab. No merit was found in the case of the petitioner and other affected persons and the seniority list issued by the Board on 29.12.1997 was held to be correct. A copy of the order was endorsed to the petitioner vide Annexure P-11 dated 01.01.2013 (in CWP No.898 of 2013) The petitioner filed CWP No.898 of 2013 to impugn the aforesaid orders.

Learned counsel for the petitioner has inter-alia contended that the order Annexure P-12 does not reflect any consideration on merits of the case of the petitioner with reference to the 1980 Regulations. He further states that if respondent No.1 (Principal Secretary, Government of Punjab, Department of Science and Technology), were to reconsider the case of the promotion of the petitioner with reference to the 1980 Regulations, he would not press his two writ petitions. Ld. Counsel for the respondents has no objection to this.

Accordingly, learned counsel for the parties are agreed that in

case the petitioner submits a fresh representation listing out his grievances, the same would be decided on merits by the Principal Secretary, Government of Punjab, Department of Science and Technology in the light of the decisions rendered in CWP No.19638 of 1996 and CWP No.3630 of 1998.

It is ordered accordingly.

The Principal Secretary while deciding the representation of the petitioner would also hear any other affected party as may desire to be heard. It is expected that the The Principal Secretary would dispose of the representation as expeditiously as possible and in any case within three months from the date of its submission by the petitioner.

The petitioner specifically undertakes that in the event his representation is accepted and he is granted ante-dated promotion, he would not claim seniority over and above Sh. Pawan Kumar, Sh. V B. Handa and Sh. R. K. Gupta and Sh. Gurnam Singh who were promoted in 1988 and 1989 relying on the 1987 Regulations.

Both petitions are disposed of in the above terms.

28.01.2015

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(HARINDER SINGH SIDHU)
JUDGE