

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

CWP No. 11330 of 2010 (O&M)

Date of decision: 16.07.2015

Kuldip Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. M.L. Saggar, Sr. Advocate with
Mr. Gaurav Grover, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. Ramandeep, Advocate for
Mr. R.S. Bajaj, Advocate for respondent No.3.

None for respondent No.4.

Jitendra Chauhan, J. (Oral)

By way of the instant writ petition, under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the order dated 30.10.2009, passed by respondent No.1 to the extent of declining the prayer for grant of arrears of pay from 26.12.2001 to 21.12.2006 from the due date of promotion as Superintendent Grade-II.

The petitioner retired as Superintendent Grade-II on 30.04.2008 from Municipal Corporation, Ludhiana. The short prayer in the present petition is that the petitioner was not promoted on 21.12.2001 when his juniors were promoted despite his being in consideration zone and fulfilling all the conditions of promotion. The

petitioner was subsequently promoted to the post of Superintendent Grade-II on 22.12.2006. Against the denial of his legitimate claim of promotion, an appeal dated 17.01.2002 was addressed to the competent authority. The competent authority was pleased to reject the prayer made by the petitioner, vide order dated 30.10.2009 (Annexure P-8) on the ground that the petitioner did not work against the post, therefore, under the principle of 'no work no pay', the case of the petitioner was declined.

It is asserted by learned counsel for the petitioner that no reason has been cited for not considering the petitioner for promotion. The appeal preferred by the petitioner was kept pending for long. There was no inquiry, charge sheet or any disciplinary proceedings pending against the petitioner. The petitioner served the Department with full dedication.

On the other hand, the learned State counsel submits that as the petitioner had not worked against the post for which he is claiming the salary, therefore, he cannot be paid the arrears.

I have heard the learned counsel for the parties and have gone through the record carefully.

Perusal of the record reveals that at the time of consideration for promotion of the petitioner on 26.12.2001, when his juniors were promoted, there was no circumstance i.e. Charge sheet, inquiry or any other disciplinary proceedings pending against the

petitioner and his all ACRs were good. The reply is totally silent with regard to the reasons as to why he was not promoted to the next higher post. For the redressal of his grouse, the petitioner also represented to the competent authority in the year 2001, whereas the same was decided on 30.10.2009. No explanation has come forward for this unexplained long delay on the part of the respondent.

In the circumstances, it is held that the petitioner was wrongly denied the promotion. The appeal preferred by the petitioner was kept pending without any sufficient cause. The petitioner suffered financial loss for the inaction of the authorities. The argument raised by the learned State counsel that the salary cannot be paid on the principle of no work no pay would not be applicable in the given circumstances and lacks merit, therefore, the same is rejected. In fact, the petitioner was denied to work against the superior post and the respondents must suffer the consequences.

Accordingly, the present petition is allowed. The respondents are directed to calculate the amount of difference to be paid to the petitioner from the due date of his promotion as Superintendent Grade-II, within twelve weeks from the receipt of certified copy of this order and pay the same within three weeks thereafter. The payment shall also carry interest @ 8% per annum.

16.07.2015

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether to be referred to Reporter : Yes / NO.