

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

**CWP No.11295 of 2013
Decided on : 13.10.2015**

Sukhchain Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Madhav Pokhrel, Advocate for
Mr. M.L. Sachdeva, Advocate
for the petitioner.

Mr. APS Mann, Addl., AG, Punjab.

G.S. Sandhawalia , J. (Oral)

The petitioner seeks the relief of deemed date of promotion to the post of Lecturer in Punjabi on the ground that he was left out at the time when his junior was promoted.

It is submitted that petitioner appointed on 25.02.1991 (Annexure P-2) and he joined as Punjabi Master on 09.03.1991 (Annexure P-3) in the Scheduled Caste Category. He was promoted on 10.10.1995 (Annexure P-4) as a Lecturer and he joined as such on 09.11.1995. The final seniority list of lecturers was circulated on 24.11.2010 (Annexure P-7) and the name of the petitioner figured at Sr. No. 1473. On the perusal of the list, the petitioner came to know that he had been left out and his juniors had been given promotion and thus he filed the representation dated 10.10.2011 (Annexure P-9) seeking the promotion from the deemed date.

The State in its reply has clarified that the petitioner is seeking the promotion from 22.10.1993, the actual date of promotion when the juniors to him were promoted and he was left out. The opposition to the relief claimed was on the ground of delay and laches by taking the plea he had joined on 10.11.1995 and never raised any grievance. The factum of seniority list being finally circulated on 24.11.2010 has not been denied, rather it has been mentioned that one Sewak Singh who was senior to the petitioner and figured at Sr. No. 1470 had been promoted on 10.10.1995 alongwith the petitioner and had been granted promotion w.e.f. 22.10.1993 i.e. deemed date. Accordingly, it has been averred that petitioner has never raised his grievance prior to 10.10.2011.

Counsel for the petitioner submits that while referring to the seniority list (Annexure P-7) to point out that the candidate at Sr. No. 1139 had joined after the petitioner on 13.03.1991 as Punjabi Master and had been promoted on 22.10.1993 as a Lecturer and, therefore, has stolen a march therein as the petitioner's date of appointment was earlier i.e. 09.03.1991 and therefore, he was entitled for the deemed promotion.

The State in his reply as noticed has admitted this fact that the junior had been promoted prior to the petitioner. State has also given benefit of promotion to one Sewak Singh who has been

granted deemed promotion w.e.f. 22.10.1993. The petitioner was also entitled for the same relief.

In such circumstances, the said person has been given relief from 03.12.2012 and the petitioner being similarly situated was also entitled for the same. Merely because there were delay and laches which have been sufficiently explained by the petitioner by submitting that there was no occasion for him to know that the junior to him at Sr. No. 1139 had been promoted. Neither any averment has been made by the State that the promotion of the said junior was in the knowledge of the petitioner for all these years and he had slept over his rights. Even otherwise, it would not lie in the mouth of the State to oppose the claim of the seniority on the principle of delay once the petitioner's entitlement is there and not denied. The issue of delay and laches could only be raised by the private respondents who might be effected, as such and would be adversely affected and could submit that on account of the petitioner having not resorted to his legal remedy within the prescribed period some vested rights have flown to them.

Accordingly, in such circumstances, the petitioner is entitled for the relief claimed. The writ petition is accordingly allowed and the petitioner is granted the deemed date of promotion as 22.10.1993.

The financial benefits to the petitioner will accrue to him from 3 years 2 months prior to serving of the legal notice on 10.10.2011 when he has raised his claim.

The consequential benefits will accordingly be paid to the petitioner within a period of 3 months from the receipt of the certified copy of this order.

OCTOBER 13, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE