

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

**CWP- 16575-2012 (O&M)
Date of Decision : 27.07.2015**

Ranbir Singh

..... Petitioner

versus

The State of Haryana & Ors.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Arvind Kashyap, Advocate
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. A.G., Haryana.

Mr. Padamkant Dwivedi, Advocate
for respondent No.2 to 5.

Mr. Sudhanshu Makkar, Advocate
for respondent No.6.

1. Whether Reporters of local papers 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?

AJAY TEWARI, J. (ORAL)

By this writ petition the petitioner has challenged the promotion of the respondent No.6 from the post of Malli to that of Water Pump Operator Grade-II. The case of the petitioner (which is admitted) is that the petitioner is senior to the respondent No.6 and at the time when the respondent No.6 was considered for promotion his claim was not considered. In reply the promotion of the respondent No.6 is sought to be defended on two grounds. First that he was in fact

working as Water Pump Operator since 1993 and second that he had filed a writ petition claiming that promotion and this Court had directed the respondents No.2 to 5 to consider his claim. It is pleaded that at that stage his claim was rejected but later on the post of Water Pump Operator Grade-II fall vacant and thereafter he was promoted on 13.06.2012.

I put it to the learned counsel for the respondents No.2 to 5 if these reasons could be held to be good reasons for completely ignoring the claim of the petitioner for consideration at the time when the respondent No.6 was so promoted. Learned counsel for the respondents have accepted that the only reason which is good is the first one viz. that the respondent No.6 had an experience of Water Pump Operator.

In my opinion, this is an unacceptable and illegal practice. The claim of a senior for promotion can not be obliterated by giving the charge of higher post on current duty basis to a junior person and then claiming that the junior had the experience of the said post. Had the petitioner been granted the charge of Water Pump Operator in the year 1993 he would have also got the experience. It is not a case where the post of Water Pump Operator has any designated qualifications which the respondent No.6 holds and the petitioner does not hold.

As regards the relevant material to be placed on record by the respondents No.2 to 5 in terms of order dated 13.11.2014, learned counsel for the respondents No.2 to 5 states that apart from the

averments made in paragraph 7 of the written statement there is no other material on record to corroborate the assertions that the work & conduct of the petitioner was not found satisfactory.

In the circumstances, the prayer of the petitioner for promotion from the date his junior i.e. respondent No.6 was promoted can not be denied.

No other argument has been raised by the learned counsel for the petitioner.

Petition stands disposed of. The respondents No.2 to 5 are directed to consider the claim of the petitioner for promotion from the date his junior was promoted and, if the petitioner is found suitable as per the rules, to grant him the said benefit and all consequential benefits which flow therefrom within a period of three months from the date of receipt of a certified copy of this order. In case any due monetary benefit is not released to the petitioner within the aforesaid period, he would be entitled to claim the same with interest at the rate of 8% p.a. from the date/s the amount/s fell due till the date/s of payment/s.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

27.07.2015*Pooja Sharma-I***(AJAY TEWARI)
JUDGE**