

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

1. **CWP-13001 of 2014 (O&M)**
Date of Decision : 06.05.2015

Suresh Kumar Gupta

.... Petitioner

vs.

State of Haryana & ors.

.... Respondents

2. **CWP-9525-2002 (O&M)**

Suresh Kumar Gupta

.... Petitioner

vs.

State of Haryana & ors.

.... Respondents

3. **CWP-9740-2002 (O&M)**

Prem Parkash Gupta

.... Petitioner

vs.

Haryana State Agriculture Marketing Board & anr.

.... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr.R.K.Malik, Senior Advocate with
Mr.Kuldeep Sheoran, Advocate
for the petitioner(s).

Mr.Ashok Singh Chaudhary, Addl. A.G., Haryana
for respondent No.3 (CWP No.9525-2002)
for respondent No.2 (CWP No.9740-2002)

Mr.Manish Bansal, DAG, Haryana
for the respondents (CWP No.13001-2014)
for respondents No.1 & 2 (CWP No.9525-2002)

Mr.Partap Singh, Advocate for
respondent No.1(CWP 9740-2002)

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)

These petitions are connected and are being decided by common order since cause of action in all the cases are related.

Both the petitioners-Suresh Kumar Gupta and Prem Parkash Gupta were appointed as Junior Engineer in Minor Irrigation Tubewells Corporation (MITC), Haryana in the year 1978. In the year 1998, they were both sent on deputation to the respondent No.1 and 2 along with many other employees senior and junior to them. Both applied for regular absorption to the respondents 1 & 2. In both the cases it is admitted that both of them were otherwise eligible and suitable for regular absorption and only no objection certificate was required from the MITC. In both cases, there was an unwarranted delay in the issuance of no objection certificate. During this period MITC was ordered to be closed down and a policy decision was taken whereby it was held that the employees of MITC and similarly closed down institutions would not be entitled for absorption but would be entitled to other benefits. For this reason the absorption of both these employees could not be effectuated.

By this writ petition, the petitioners have prayed that the unwarranted delay in the issuance of no objection certificate could not defeat the earlier right which had earlier accrued to the petitioners to be absorbed in the respondents No.1 & 2 when their juniors were so absorbed. Learned senior counsel for the petitioners has argued that if there was some good reason for withholding the no objection certificate and during that time the policy had changed it may have been argued that

such person could not have a right of absorption but where the admitted fact is that there was no good reason for withholding the no objection certificate and, in fact the no objection certificate was ultimately issued, the same could not be withdrawn because of a subsequent change in policy.

Learned counsel for the respondents have not been able to deny that in fact there was no valid reason for withholding the no objection certificate and no objection certificates were in fact issued to similarly situated persons who were juniors to the petitioners.

In this view of the matter, the prayer of the petitioners can not be denied and it is held that the petitioners would be entitled for regular absorption in the respondents No.1 & 2 from the date their juniors were so absorbed.

The petitioner-Suresh Kumar Gupta has subsequently filed CWP No.13001 of 2014 claiming that his retiral benefits were being retained. In reply the only plea taken was that the retiral benefits could not be released in view of the pendency of CWP No.9525 of 2002. Since that writ petition has today been decided the respondents will now consider the claim of the petitioner-Suresh Kumar Gupta and pay the dues to him within a period of 2 months from the date of receipt of a certified copy of this order, failing which, the petitioner-Sh.Suresh Kumar Gupta would be entitled to claim the same with interest @ 8% from the date six months after his retirement till the date of payment/s.

Petitions stand allowed in the above terms.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

May 06, 2015

pooja sharma-I

(AJAY TEWARI)
JUDGE