

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12332 of 2015

Date of decision: 10.06.2015

Indu Bala

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE GURMEET SINGH SANDHAWALIA

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Kirpal Singh, Advocate for the petitioner.

Mr. Deepak Sabharwal, Addl. Advocate General, Haryana
for respondents No.1 and 2.

Mr. Shalender Mohan, Advocate for Caveator/respondent
No.3.

G.S.SANDHAWALIA, J. (Oral).

Notice of motion.

Mr. Deepak Sabharwal, Addl. Advocate General, Haryana
accepts notice on behalf of respondents no.1 and 2.

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the minutes of the meeting of the Departmental Promotion Committee i.e. DPC held on 27.3.2015 (Annexure P/11) vide which recommendation has been made to promote respondent no.3 to the post of Private Secretary, Department of Women and Child Development, Haryana and revert the petitioner as Senior Scale Stenographer from the post of Private Secretary on which she has been working since 9.8.2012. As per the DPC she has also to be promoted to the post of Superintendent.

A perusal of the minutes of the DPC would go on to show that it is based mainly on the earlier decision dated 12.11.2014 of the then Principal Secretary. Photocopy of the said decision has also been

placed on record by the counsel for the petitioner. Various issues have been dealt with on the representation dated 6.5.2014 of respondent no.3 and it is apparent that no reply was called from the petitioner who would have been adversely affected. It is also not disputed that the petitioner's services were regularised with effect from 1.11.1986 (Annexure P/3) on the post of Junior Scale Stenographer whereas the respondent no.3 was appointed on 24/26.6.1987. It is also not disputed that the seniority list was circulated in the year 1999 and the petitioner has been shown at Sr. No.2 on the post of Junior Scale Stenographer whereas respondent no.3 has been shown at Sr. No.4. The petitioner was admittedly promoted to the upgraded post of Private Secretary vide order dated 8/9.8.2012 (Annexure P/7) and it is not disputed that she has been working on the said post since then. It further transpires that private respondent no.3 had filed Civil Writ Petition No.1462 of 1995 whereby his dispute was with one Surinder Singh which was decided on 30.11.2012 and the following directions were granted in his favour:-

“23. Accordingly, the writ petition is allowed and consequently it is held that the petitioner was wrongly reverted on 10.03.1992 to the post of Junior Scale Stenographer and the said order is, accordingly, quashed. Further a writ of mandamus is issued that the petitioner shall be entitled for consideration to be promoted to the post of Personal Assistant w.e.f. 05.12.1994, the date when his junior, respondent No.4 was promoted. The petitioner shall be further entitled for all the notional benefits as if he would not have been reverted from 10.03.1992 and also for the benefits of higher post of Personal Assistant w.e.f. 05.12.1994. The official respondents shall take necessary action on the receipt of the certified copy of this order, within a period of 2 months. Writ petition is disposed of along with costs of ₹ 5000/-, which the petitioner shall be

entitled from the Department.”

It is the case of Mr. Shalender Mohan, counsel for respondent no.3 in view of the said decision certain rights have accrued to the private respondent. However, the said contention is opposed by the counsel for the petitioner.

Keeping in view the above facts, it would be appropriate if an independent decision is taken afresh by the DPC without taking into consideration the earlier decision dated 12.11.2014 which was taken by the then Principal Secretary and which was passed at the back of the present petitioner on the representation of respondent no.3.

Counsel for the State has also submitted that keeping in view the aforesaid facts, fresh decision can be taken on the said issue after taking into account the submissions of both sides i.e. petitioner as well as private respondent. Accordingly the present order has been passed on the consensus of the parties, without the reply being filed.

In such circumstances, the present writ petition is allowed and the minutes of DPC dated 27.3.2015 (Annexure P/11) are quashed. Fresh exercise be conducted within a period of two months from the receipt of a certified copy of this order.

It is made clear that nothing expressed herein shall be construed as an expression on the merits of the case and they have been made only for the purpose of deciding the present petition as this Court has arrived at a conclusion that the minutes of the DPC are biased on account of an earlier order dated 12.11.2014 passed by the then Principal Secretary at the back of the petitioner.

10.06.2015
Pka

(G.S.SANDHAWALIA)
JUDGE