

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

CWP No. 22537 of 2012(O&M)

Date of decision : 14.05.2015

Ashok Kumar Ghai

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Jai Bhagwan Sharma, Advocate for the petitioner.

Ms.Shruti Goyal, AAG, Haryana.

Mr.Suresh Ahlawat, Advocate for respondent No.2.

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)

The petitioner was appointed as Sales Tax Assistant in the office of respondent-Corporation against sanctioned/vacant post on 18.11.1980 and was promoted to the post of Accountant(Sales Tax) on 26.12.1985. On 12.05.1998 the respondent-corporation drew an inter-se seniority list of 10 Accountants and objections were sought thereto. The petitioner objected that he should be placed at serial number 5. The aforesaid list was finalised and a separate cadre was made for Accountant(Sales Tax). Thereafter the respondent-Corporation framed service regulations called Haryana Seed Development Corporation Limited Employees Service Regulations, 1989. On 16.10.2007 the respondent-Corporation decided to consider the case of the petitioner for promotion to the post of Accounts Officer along with one Sh.S.M.Gupta. With the reversion of one Balwan Singh-Accounts Officer to

the post of Accountant respondent No.4, who was junior to the petitioner, was promoted to the post of Accounts Officer and the petitioner was left out. He moved a representation in this regard. On the recommendation of the board of directors of the corporation, the State Government approved the proposal for redesignation of the post of Accountant to the Section Officer in the pay scale of Rs. 6500-9900 but the said benefit was not given to the petitioner. He again represented, on which the board of directors gave approval for the change of the designation of the petitioner as Section Officer and to grant him the aforesaid pay scale but the same has not been granted to him so far. Apart from that he submitted a representation(Annexure P-9) to Legal Cell committee of the Corporation i.e. HSDC Employees Litigation Grievances Forum which considered his case and recommended him for promotion to the post of Accounts Officer vide Annexure P-10 observing as follows:-

“Therefore, the committee is of the view that the promotion case of Sh.A.K.Ghai may be dealt with by Admn. Section in the light of service rules as well as on the basis of seniority-cum-merit.”

Despite the recommendation of the aforesaid Committee no benefit has been granted to the petitioner as yet and now by way of the present writ petition the petitioner has sought his promotion to the post of Accounts Officer with effect from the date his junior i.e. Respondent No.3 has been promoted. Another prayer is to grant him the identical pay scale of Rs. 6500-9900 and redesignate him as Section Officer w.e.f. 15.06.2007 when similar benefit was given to other Accountants.

On 23.12.2014 the following order was passed:-

“Learned counsel for respondent No.2 refers to the decision taken by the Corporation vide Annexure P-10 in

favour of the petitioner. He further refers to the averments taken in para 16 of the written statement to the effect that the abovesaid decision taken by respondent No.2 was sent to the State Government with request to send the same to the Member Secretary, HBPE for placing the same before the Standing Committee for approval. Thereafter, State Government sought clarifications from time to time and the same were provided to them, however, the same is still pending consideration before the State Government.

Faced with the above, learned counsel for the State seeks time to get instructions and also to file reply, if any.

On his request, adjourned to 26.3.2015.”

On 26.03.2015 the following order was passed:-

“ Last opportunity is granted to the State to get instructions in terms of the order dated 23.12.2014.

Adjourned to 14.05.2015.”

Today again learned AAG seeks time. As per her she has written a letter to the Chairman, Haryana Seeds Development Corporation but there is no response.

In the circumstances I see no reason to give any more time. Moreover on perusal of the petition I find that the Board had approved re-designation of the post of Accountants including Accountant (Sales Tax)(the post which the petitioner held) of the Corporation to that of Section Officer subject to approval of Haryana Bureau of Public Enterprises. In **Uttar Haryana Bijli Vitran Nigam and others v. Pawan Kumar**, LPA No. 383 of 2014 decided on 18.02.2015 this Court has already held that every company or corporation is an independent body and the Haryana Bureau of Public Enterprises does not have any jurisdiction for interfering in their matters.

In the circumstances as far as the prayer of the petitioner for re-designation from the post of Accountant to that of Section Officer is

concerned, this petition is allowed.

As regards the claim for promotion the respondent No.2 is directed to take a reasoned decision on the issue of the promotion of the petitioner to the post of Accounts Officer with effect from the date his junior was promoted, within a period of two months from the date of receipt of a certified copy of this order.

The petition stands disposed of in the above terms.

(AJAY TEWARI)
JUDGE

May 14 , 2015
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