

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

CWP No. 20736 of 2013 (O&M)
Date of decision : 20.2.2015

Jaspal Singh

..... Petitioner

VS

State of Haryana and others

... Respondents

Coram : Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Naveen Daryal, Advocate for the petitioner.

Mr. Kuldeep Tiwari, Additional Advocate General, Haryana.

Rajesh Bindal J.

The petitioner has approached this Court impugning the order dated 30.7.2013 (Annexure P-6), whereby the seniority given to the petitioner on the post of Assistant Agriculture Engineer with effect from 23.10.1989 was withdrawn.

Learned counsel for the petitioner submitted that after selection, the name of the petitioner was recommended by the Haryana Public Service Commission (for short, 'the Commission') on 23.10.1989 against the post of Assistant Agriculture Engineer reserved for Backward Class Category. The petitioner was not allowed to join his duties. CWP No. 9613 of 1992 filed by him was allowed by this Court on 20.12.1994, directing the official respondents to appoint the petitioner forthwith. This was subject to the condition that if any right accrues to the petitioner vide judgment dated 20.12.1994 passed in CWP No. 8386 of 1988 Amarjeet Singh and another vs State of Haryana and another then the direction given in the case need not be given effect to. In the aforesaid petition, the case set up by the petitioner was that without any good reason despite selection, the petitioner was not being offered appointment.

After the judgment of this Court was delivered in CWP No. 9613 of 1992 on 20.12.1994, the petitioner was allowed to join his duties on 20.11.1995. Vide order dated 26.8.2008, the petitioner was granted the

seniority from the date recommendations were made by the Commission without any consequential benefits accruing therefrom. However without affording any opportunity of hearing, vide impugned order dated 30.7.2013, the aforesaid order was withdrawn.

Learned counsel for the petitioner submitted that there was error apparent in the impugned order passed by the authority where reference was made to Amarjeet Singh's case (supra) filed by the petitioner, which was decided on 20.12.1994. In fact the petitioner was not granted appointment in terms of the aforesaid order, rather it was in terms of the order passed in CWP No. 9613 of 1992. The name of the petitioner had already been recommended for appointment and it was not recommended in terms of judgment of this Court in CWP No. 8386 of 1988. The authorities had initially rightly granted the benefits to the petitioner from the date his name was recommended. Withdrawal thereof at the later stage without even opportunity of hearing was uncalled for.

On the other hand, learned counsel for the State submitted that any benefit granted to an employee wrongly can be withdrawn at any time. The petitioner could be granted the benefit only from the date his name was recommended by the Commission and that was after the judgment of this Court in CWP No. 8386 of 1988, hence, the same was rightly withdrawn. Now the petitioner has already retired from service on 30.4.2014.

Heard learned counsel for the parties and perused the paper book.

Initially the name of the petitioner was recommended for appointment by the Commission and he was even intimated vide letter dated 11.10.1989. But without there being any good reason, appointment letter was not issued. The petitioner filed CWP No. 9613 of 1992 raising the grievance that though his name has been recommended by the Commission but still for no good reason, he has been denied appointment. The same was allowed by this Court on 20.12.1994 directing the authorities to appoint the petitioner forthwith.

In CWP No. 8386 of 1988, the prayer was for a direction to the authorities to declare the list of qualified candidates. The same was filed prior in time. However, as is evident from the facts noticed in CWP No. 9613 of 1992, the petitioner was intimated about his selection vide letter

dated 11.10.1989. Hence, to claim that the petitioner would be entitled to all the service benefits from the date his name was recommended in terms of judgment passed in CWP No. 8386 of 1988 is totally erroneous. The impugned order dated 30.7.2013 is set aside. The petitioner has already retired from service on 30.4.2014.

The writ petition is disposed of.

20.2.2015

vs

(Rajesh Bindal)
Judge