

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 26727 of 2014 (O&M)

Date of Decision: 15.01.2015.

Birender Singh Hooda

--Petitioner

Versus

State of Haryana & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Sushil Jain, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J

The petitioner, who is currently serving as Horticulture Development Officer under the Horticulture Department, State of Haryana, has filed the instant writ petition praying for the issuance of a Writ of Mandamus for directing the respondents to grant to him the benefit of deemed date of promotion to the post of Assistant Project Officer w.e.f. 12.10.2011.

Learned counsel for the petitioner has been heard.

It has gone uncontroverted that a promotion order was issued on 12.10.2011, whereby the petitioner was promoted as Assistant Project Officer. The petitioner submitted a written request dated 28.10.2011 citing health reasons and as such, requested for deferment of such benefit. Vide order dated 17.10.2011, passed by the Director General, Horticulture at Annexure P-4 such request submitted by the petitioner was dealt with and it was directed that the benefit of promotion to the petitioner to the post of Assistant Project Officer stands withdrawn and he would not be considered for promotion for a period of one year.

It so transpires that upon a further representation having been made by the petitioner dated 14.3.2012 indicating therein that his health condition had improved, the petitioner was promoted to the post of Assistant Project Officer on 18.7.2012 (Annexure P-9).

The entire case set up on behalf of the petitioner is that since the respondent authorities have themselves granted benefit of promotion to the petitioner to the post of Assistant Project Officer within a period of one year of the initial order of promotion, as such, the condition of deferment as regards consideration for promotion for a period of one year in the light of order dated 17.10.2011 at Annexure P-4 would not apply and would be deemed to have waived of.

Such submission is wholly misplaced and is not accepted by this Court.

There are specific instructions issued by the State Govt. dated 2.11.1992 as regards dealing with a situation, wherein an employee forgoes the benefit of promotion. In terms of such instructions, upon benefit of promotion having been foregone, the employee is not to be considered for promotion for a period of one year. It is strictly in terms of the instructions dated 2.11.1992, issued by the State Govt. that the order dated 17.10.2011 at Annexure P-4 was passed by the Director General, Horticulture withdrawing the order of promotion dated 12.10.2011 passed in favour of the petitioner for the post of Assistant Project Officer on account of the fact that he had himself of his own accord not accepted such promotional benefit. In such order dated 17.10.2011, it had been clearly stated that the petitioner would not be considered for promotion to the post of Assistant Project Officer for a period of one year. Such order dated 17.10.2011 at

Annexure P-4 was never put to challenge by the petitioner.

Merely on account of the fact that the respondent authorities have promoted the petitioner as Assistant Project Officer on 18.7.2012 i.e. prior to the time period of one year having elapsed, no vested right would accrue to the petitioner to claim promotion as Assistant Project Officer w.e.f. 13.10.2011. The benefit of promotion granted to the petitioner vide order dated 18.7.2012 as Assistant Project Officer prior to lapse of period of one year can at best be viewed as a concession having been granted by the employer. No rights therefrom can possibly flow in favour of the petitioner, to now seek ante dated promotion to the post in question w.e.f. 12.10.2011.

Claim raised in the instant petition seeking deemed date of promotion as Assistant Project Officer w.e.f. 12.10.2011 is found to be without merit and the same is, accordingly, dismissed.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

January 15, 2015.
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