

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.4908 of 2015

Date of Decision: March 19, 2015

Yash Pal Gupta

.....Petitioner

versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present:Mr.V.K.Sharma, Advocate, for the petitioner.

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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?

Surya Kant, J. (Oral)

The order dated 21.11.2014 passed by Central Administrative Tribunal, Chandigarh Bench, dismissing the Original Application filed by the petitioner alongwith his two colleagues, is under challenge in this writ petition.

[2] The claim of petitioner and his colleagues before the Tribunal was to set-aside the order dated 14.12.2010 and to issue a direction for their promotion firstly as Record Keepers, then as Lower Division Clerks (for short 'LDC') and finally as Upper Division Clerks (for short 'UDC') at par with their juniors, alongwith consequential benefits.

[3] The facts are broadly admitted. The petitioner, his colleagues as well as their junior(s) joined as Sepoy-a Class-IV post, in the department on different dates. In the seniority list of Group-D employees, the petitioner was placed at Sr.No.114, whereas his juniors were placed at Sr.Nos.127, 127-A, 127-B

and 128 onwards. The petitioner and his colleagues came to know from the letters dated 21.08.2008 and 31.12.2008 that Ghandarv Singh, their junior who was at Sr.No.128 in the seniority list, stood promoted as LDC and then as UDC allegedly without considering them. They represented for retrospective promotion but the authorities turned down their claim vide the impugned order dated 14.12.2010.

[4] The factum of seniority was not disputed by the respondents. They, however, pointed out that Record Keeper and Gestetnor Operator though included in Grade-D posts but were carrying higher pay than the grade of a Sepoy. They further averred that to fill up the posts of Record Keeper, options were invited from Sepoy/Grade-D employees of Lower Grade for which a suitability test was held. While the petitioner or his co-applicants did not appear in that test, some of their juniors including Gandharv Singh appeared and having qualified, they were promoted as Record Keepers in the year 1995.

[5] As regard to assignment of inter se seniority amongst Group-D employees holding different posts, the Competent Authority had issued a circular dated 24.01.1992, the relevant part whereof reads as follows:-

“...2. A doubt has been raised, as to how the seniority of the Gr.D employees will be maintained for their consideration against 5% quota (seniority-cum-fitness). The matter has, since, been examined in consultation with the Department of Personnel and Training who advised that a combined eligibility list may be prepared with respect to the date of completion by the Gr.D employees of the prescribed qualifying service (5 years) in the respective Gr.D post, subject to maintenance of inter-seniority within each Gr.D post, provided further

that those in a higher scale of pay will en-block rank higher to those in the lower scale of pay.....”

(emphasis applied)

[6] It was in deference to the aforesaid criteria that junior(s) to the petitioner due to their promotion as Record Keepers in the higher pay scale, were ranked senior to the petitioner for the purpose of further promotion to the post of LDC.

[7] The petitioner admittedly did not participate in the suitability test held for promotion to the post of Record Keeper. He or his co-applicants never questioned the promotion granted to Gangharv Singh or other employees on the post of Record Keeper in the year 1995. Similarly, the criteria laid down in the circular dated 24.01.1992 for inter se placement of Grade-D employees for the purpose of their promotion against 5% quota in the cadre of LDC on seniority-cum-fitness, was also not questioned.

In the light of these facts, the claim of juniors having marched over the petitioner through legitimate means, has rightly not been interfered by the Tribunal.

Dismissed.

[SURYA KANT]
JUDGE

March 19, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE