

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

LPA No. 876 of 2015 (O&M)

DATE OF DECISION : 11.09.2015

Chander Prabha

.... APPELLANT

Versus

State of Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Gurinder Pal Singh, Advocate,
for the appellant.

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SATISH KUMAR MITTAL, J.

This intra-court appeal under Clause X of the Letters Patent has been filed against the orders dated 03.02.2012 and 12.02.2014 passed by the learned Single Judge, whereby the writ petition (CWP No. 5236 of 1993) and Review Application (RA No.CW-264 of 2012) filed by the appellant were dismissed. In the writ petition, the appellant sought direction to the official respondents to give her seniority with all consequential benefits with effect from 22.04.1976, when she was eligible for promotion to the post of Public Relations Officer (Research and Reference). She also challenged the order dated 22.04.1993 whereby her representation for grant of promotion with effect from 1976 was rejected; as well as the order dated 02.02.1993 and 08.06.1993, whereby respondents No. 14 and 15,

respectively, were promoted to the post of Deputy Director.

Though there is delay of 348 days in re-filing and 765 days in filing the appeal; and the appellant has filed applications (CM Nos. 1832-LPA and 1833-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the appellant on merits and have gone through the impugned order passed by the learned Single Judge.

In this case, in the year 1977, when the appellant was working as Statistical Assistant, one post of Public Relations Officer (Research and Reference) fell vacant. It is the case of the appellant that the said post was to be filled up by way of promotion in view of Rule 9 (d) (i) of the Haryana Public Relations (State Service Class – II) Rules, 1975 (hereinafter referred to as 'the 1975 Rules'). At that time, she was eligible to be promoted to the said vacant post. On the said post, one Shri K.K. Aggarwal, who was working as Public Relations Officer, was posted by way of transfer vide order dated 17.06.1977 in view of Rule 15 of the 1975 Rules. It is the case of the appellant that Shri K.K. Aggarwal was transferred to the said post, in order to deny her the promotion on the post of Public Relations Officer (Research and Reference). Undisputedly, the appellant was promoted to the post of Public Relations Officer (Research and Reference) on 12.12.1980. Therefore, her only grouse is that she should have been promoted with effect from 22.04.1976, when she became eligible for promotion to the said post with all consequential benefits.

After hearing learned counsel for the appellant and going through the impugned order, we do not find any merit in the instant appeal.

The cause of action accrued to the appellant in the year 1977, when Shri K.K. Aggarwal was promoted to the post of Public Relations Officer (Research and Reference), but she filed the writ petition in the year 1993 by stating that her representation for grant of promotion with effect from 1976 was rejected on 22.04.1993. The said representation was submitted on 25.01.1993, after more than 16 years of denial of promotion to the appellant on the said post. The learned Single Judge dismissed the writ petition of the appellant while observing that it is the discretion of the authorities to fill up the post of Public Relations Officer (Research and Reference) either by way of transfer under Rule 15 or by way of promotion under Rule 9 (d) (i) of the 1975 Rules. Rule 9 (d) (i) provides for recruitment to the post of Public Relations Officer (Research and Reference) through selection from amongst Statistical Assistants. Under the said Rule, before making selection, a panel of eligible persons is to be considered for promotion to the said post. Under this Rule, the appellant was only having the right to be considered for promotion. The learned Single Judge found that instead of filling up the said vacant post by way of promotion, the authorities decided to fill up the post by way of transfer under Rule 15 of the 1975 Rules, which provides that the jobs of Public Relations Officer, Editors and Public Relations Officer (Research and Reference) and District

Public Relations Officer shall be interchangeable and all the Public Relation Officers shall have joint seniority. At the relevant time, Shri K.K. Aggarwal was already working as Public Relations Officer, therefore, he was transferred to the post of Public Relations Officer (Research and Reference) under the said Rule. The learned Single Judge did not find any illegality in the order transferring Shri K.K. Aggarwal to the post of Public Relations Officer (Research and Reference).

Learned counsel for the appellant argued that Shri K.K. Aggarwal was illegally posted to the post of Public Relations Officer (Research and Reference), rather the said post should have been filled up by way of promotion under Rule 9 (d) (i) of the 1975 Rules, and at that time, the appellant was the only eligible candidate to be promoted to the post. Therefore, by posting Shri K.K. Aggarwal on the said post, she was denied promotion.

In our opinion, the aforesaid contention cannot be accepted. If under the Rules, there are two modes of filling up a particular post, it is the discretion of the appointing authority to fill up the post by adopting any mode. The appellant was having no right of promotion to the vacant post. She was only having right to be considered for promotion to the post. Once the official respondents decided to fill up the said post by way of transfer, the appellant could not allege that the said posting by transfer was illegal or contrary to the rules. Admittedly, Shri K.K. Aggarwal, who was working as

Public Relations Officer and was posted to the vacant post by way of transfer, was senior to the appellant. His posting on the vacant post was made in according with the 1975 Rules. Thus, we do not find any illegality in the impugned order passed by the learned Single Judge, whereby the writ petition of the appellant has been rightly dismissed.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

September 11, 2015
ndj

(MAHAVIR S. CHAUHAN)
JUDGE