

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 10466 of 1995

Date of decision : January 22, 2016

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Sunita Nijhawan

.....Petitioner

Versus

State of Haryana thorough its Commissioner
and Secretary, Government of Haryana,
Social Welfare Department, Chandigarh.

.....Respondent

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: None for the petitioner.

Mr. Samarvir Singh, DAG, Haryana.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

The petitioner is seeking a writ of certiorari for quashing the order dated 20.6.1995 (Annexure P-7) passed by the Director, Social Defence and Security, Haryana, Chandigarh and also a writ of mandamus directing the respondents to promote the petitioner to the post of Assistant from the date the petitioner completed the requisite experience of five years in service i.e from 24.2.1989.

A perusal of the impugned order shows that the petitioner had been working with the Director, Social Defence and Security Department, Haryana-respondent no.2 from 24.2.1984 on ad hoc

basis and the Department had regularized her services from 1.1.1991. She was seeking the benefit of her ad hoc service w.e.f 24.2.1984 to 1.1.1991 for promotion to the post of Assistant. It is further clear from the impugned order that the last person from the category of Clerks promoted as Assistant was Miss Sudha whose name figures at Sr. No.51 of the Seniority list. As per rules, promotion to the post of Assistant has to be made by the Department strictly in accordance with seniority-cum-merit. Since the petitioner was at Sr. No.101, she could not be promoted before her seniors as Assistant.

As per the law laid down in **Central Council For Research in Homeopathy vs. Bipin Chandra Lakhera and others, 2011 (4) SLR 477** and **State of Punjab and another vs. Ashwani Kumar and others, 2009 AIR (SC) 186**, the petitioner cannot be extended the benefit of ad hoc service before regularization towards seniority. The seniority list has been prepared keeping in view the date of regularization. There are 49 Clerks senior to the petitioner who have a prior claim of promotion to the post of Assistant. No case for setting aside the impugned order dated 20.6.1995 (Annexure P-7) is made out.

In view of all that has been discussed above, the writ petition is hereby dismissed.

January 22, 2016
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(**RITU BAHRI**)
JUDGE

