

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

**C.M. No.3685 of 2016 in/and
CWP No.3113 of 2001
Date of decision: 4.5.2016**

Bhag Singh

... Petitioner

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vivek Sharma Vashisht, Advocate, for
Mr. Gurcharan Dass, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

C.M. No.3685 of 2016

Application for early hearing is allowed. Main case is taken up for final disposal.

CWP No.3113 of 2001

1. The petitioner served as Head Analyst in the Department of Food & Supplies, Punjab. There was no avenue of promotion for Head Analysts. Aggrieved, some of the Head Analysts approached this Court in CWP No.15268 of 1999 praying for directions to the respondents to create a channel of promotion for them. The service rules did not provide any quota and they were languishing since 1975 on the same post. As per rules of 1968 and 1990, they claimed promotions. The said writ petition was disposed of on November 1, 1999 with a direction to the Director

Food and Supplies, Punjab, to consider taking action on the legal notice served upon the respondents on June 28, 1999. In compliance of the directions of the Court, the Head Analysts' assertion was accepted and a separate quota of 4% was carved out and earmarked for their cadre for promotion to the post of Assistant Food & Supplies Officer. On approval, the quota was enhanced to 5% vide order dated May 29, 2001 w.e.f. June 21, 1990 retrospectively. It was in the light of the enhanced quota that promotions were finally made on January 5, 2001. It may be noted that the cadre of Inspectors and Head Analysts is a joint cadre. It has been explained by the State in its reply in para 3 as follows:-

“The contents of this para are admitted to the extent that S/Shri Mohinder Singh and Satya Inderjit Parbhakar are junior to the petitioner as Inspectors. The petitioner changed his cadre as Head Analyst after promotion on 10.9.1991 and continue to enjoy this post till date. The petitioner is working against the post of Head Analysts and is at Sr. No.71 of seniority list of Head Analysts as issued on 10.7.2001. Whereas his one time junior Inspectors remained in the inspectorate cadre. Before filing the Civil Writ Petition No.15268 of 1999 by Head Analysts and its Associate promotions were used to be made from the joint seniority of Inspectors/Head Analysts on inter se basis. After the decision of this Hon'ble High Court in CWP No.15268 of 1999, a quota was earmarked for each of the eligible category i.e. Inspectors, Head Analysts and Ministerial staff, for promotion to the post of Assistant Food

and Supplies Officer which was fixed @ 80%, 4% and 16% respectively, vide order dated 4.4.2000(Annexure R-1) and the Head Analysts' category was given share in promotion as Assistant Food and Supplies Officer @ 4% w.e.f. 21.6.1990 which was later enhanced to 5% on appeal made by them to the Secretary Food and Supplies, Punjab. On the basis of this quota, the turn of the petitioner from the Head Analyst cadre has yet not matured whereas Sarv Shri Mohinder Singh and Satya Inderjit Parbhakar who also belong to the Scheduled Caste and were junior to the petitioner as Sub Inspector and Inspector got promotion from their own quota i.e. Inspectorate staff and accordingly, they were promoted as Assistant Food and Supplies Officer on 5.1.2001. The turn of the petitioner for promotion from his cadre (Head Analysts) has not yet come. As and when his turn matures, he will be considered and if found fit on the basis of his record, he will be granted promotion accordingly. It is worthwhile to mention here that after issuance of orders dated 4.4.2000 and 29.5.2001 (Annexure R-1 and Annexure R-2) each cadre has been given separate quota for promotion to the post of Assistant Food and Supplies. Since the petitioner is a Head Analyst, he cannot claim share from the Inspectorate cadre even though his one time junior from the last cadres (i.e. Sub Inspector & Inspector) got promotion as AFSO earlier than him from their own quota. Therefore, the averments made in this Para are incorrect hence

denied.”

2. The stand of the State in its reply is that each of the eligible category i.e. Inspectors, Head Analysts and Ministerial staff, are entitled to be promoted as per their fixed quota. If some inspectors who had been working in the Inspectorate cadre and were at one time junior to the petitioner, the petitioner being Head Analyst, should not have any grudge against them because the petitioner had also been reaping the benefits attached to the higher post of Head Analyst which his juniors did not. It is, thus, stated that the petitioner would have to wait for his turn for promotion from his own quota. This was the position on August 7, 2001 when the written statement was filed.

3. In these circumstances, it is not possible to make any case for grant of effective relief within the four corners of the rules and the amended quotas to sustain challenge to the promotions. It would no longer be in the interest of administration or of justice to disturb matters which have settled long ago and therefore, I find no substantial merit in this petition calling for interference under the extraordinary discretionary writ jurisdiction provided by Article 226 of the Constitution of India and would dismiss the petition.

4. It is ordered accordingly.

**(RAJIV NARAIN RAINA)
JUDGE**

4.5.2016
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