

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7830 of 1998 (O&M)
Date of Decision: 07.10.2016

Niranjan Lal

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. A.P. Singh, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

RAJIV NARAIN RAINA, J.

1. When the next below junior in the seniority list in the clerical line was assigned duties of the higher post of Head Clerk lying vacant in the office of the Director Health Services, Haryana, with salary to be drawn against the higher post, the petitioner was facing departmental proceedings under Rule 7 of the Haryana Civil Service (Punishment & Appeal) Rules, 1987. He was accused of submitting a false TA/DA bill for a trip from Sehlong to Mahendergarh in the month of February 1991. He submitted the TA bill twice over for payment which was contrary to the Government instructions dated June 27, 1983. The charge stands proven in the departmental inquiry. He has been inflicted punishment of withholding of two increments with cumulative effect, which is a major punishment. Therefore, the petitioner could not be given the charge of higher responsibility when a ad hoc arrangement was made in the exigencies of administration.

2. The State in its written statement put in to contest the case has apart from asserting the factual position narrated in the preceding paragraph has also maintained that no person junior to the petitioner had been promoted till the date of filing of the written statement on April 21, 1999. Subsequently, the petitioner was promoted as per his seniority as a Head Clerk on December 03, 1999, i.e., during the pendency of the petition. He was further promoted as Superintendent on February 25, 2003 and he retired from service on April 30, 2006.

3. In view of the above factual background, no legal issue arises for determination in this case and a writ of certiorari will not issue to quash the order dated June 06, 1996 giving the charge of current duty to the petitioner's admittedly junior Phool Singh – respondent No.5, an Assistant in the office of the District Malaria Office, Bhiwani. The arrangement was not a promotion and, therefore, the petitioner could not urge that a junior had been substantially promoted to the higher rank from the feeder cadre to which the petitioner belonged and accordingly this prayer is rejected. On the date the arrangement was made the petitioner was under charge-sheet for major misconduct and later stood indicted in the enquiry.

4. As far as the grievance of the petitioner regarding the 4th respondent is concerned, the same has also to be turned down for the reason that he was a member of the Scheduled Caste and was promoted from a different cadre for which seniority was maintained separately. In other words, the petitioner belonged to the Clerical cadre while the 4th respondent to the Stenography line. Even if the 4th got the benefit of accelerated promotions twice over the petitioner, still the petitioner has no *locus standi*

to challenge those promotions when made against reserve roster points earmarked for members of the reserve category (SC) in the 100 point roster. The petitioner cannot even take advantage of the catch up principle evolved in Ajit Singh Janjua v. State of Punjab, (1999) 7 SCC 209 and more was specifically in accompanying judgment of the Supreme Court in respect of Haryana reservation policy in Sube Singh Bahmani v. State of Haryana, (1999) 8 SCC 213 passed by the same Hon'ble Bench on the same day but by separate judgments and orders. It is settled position that general category candidates have no right to promotion on reserve roster points. Moreover, both the petitioner and the 4th respondent came from different channels of promotion.

5. For these reasons, I find no justification in passing any order in favour of the petitioner or to decree his claim for re-fixation of seniority in the light of Government instructions dated January 10, 1997.

6. For all these reasons, the petition is disallowed and is ordered to stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

07.10.2016

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Whether speaking/reasoned Yes

Whether reportable No