

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

**CM-14496-CWP-2014 in/and
CWP No.17659 of 2006 (O&M)
Date of decision : December 20, 2016**

Shambhu Dutt Sharma

... Petitioner

Versus

The Principal Secretary to Govt. of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Y.M. Bhagirath, Advocate for the petitioner.

Mr. R.S. Pathania, DAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

CM-14496-2014

This is an application for fixing an actual date in the main case i.e. CWP No.17659 of 2006, which stands admitted.

For the reasons mentioned in the application, the main case i.e. CWP No.17659 of 2006 is ordered to be listed for hearing and is taken on Board for hearing today itself.

Application stands disposed of.

Main Case

The petitioner, who was working as Superintendent Grade-I with Irrigation Department of Punjab Government. Vide order Annexure P-7(R-1), dated 01.03.2002, the petitioner was given the current duty charge Aarzi of Administrative Officer-2 with the condition that he will work in the

pay scale of Superintendent Grade-I and will not be authorized to claim promotion as Administrative Officer-2 as regular. He will also not get the salary of the Administrative Officer-2. Thereafter, on 03.04.2002, another order Annexure P-8 (R-2) was passed to the effect that the petitioner, who was posted as Superintendent Grade-I and was looking after the charge of Administrative Officer-2, is ordered to look after the charge of Registrar, immediately. It was further stipulated that he will work on the salary of Superintendent Grade-I and will not be authorized to claim the post of Registrar on regular basis. Thereafter, the petitioner worked as such as Registrar and ultimately retired from service on 29.02.2004 on attaining the age of superannuation.

Now, the petitioner claims notional promotion to the posts of Administrative Officer-2 and the Registrar and also claims the salary of these posts for the period, he worked as Administrative Officer-2 and Registrar.

The stand of the respondents in the reply is that in the letters Annexure P-7(R-1) and Annexur P-8(R-2), it was specifically stipulated the the petitioner will work on the salary of Superintendent Grade-I and he will not be entitled for the salary of Administrative Officer-2 and Registrar and will also not claim the regular promotion of the said posts. Therefore, now, he is precluded from the promotion and salary.

I have heard learned counsel for the parties and have also carefully gone through the case file.

So far as the promotion is concerned, for that there is a process of calling of DPC. The service record of the petitioner and other employees

are considered and thereafter the order was passed. Since, there is no such order, therefore, this Court cannot be in a position to say that the petitioner is entitled to the promotion for the posts of Administrative Officer-2 and Registrar.

Now, the question that survives for consideration is payment of salary for the higher posts for which the petitioner was given the current duty charge of Administrative Officer-2 and Registrar w.e.f. 01.03.2002 and 03.04.2002 respectively.

I am of the view that when the posts of the Administrative Officer-2 as well as the Registrar fell vacant, the respondents were expected to start the process for the promotion and make regular promotions for the said posts. However, this process was not followed and this stop gap arrangement continued for nearly two years. Two years were sufficient time for the respondents to initiate and complete the process of promotion.

Admittedly, in this case, the posts of Administrative Officer-2 and the Registrar are the promotional posts and carry higher responsibilities. The petitioner was given the current duty charge. The matter has been examined by a Division Bench of this Court in case of ***“Jagtar Singh and another vs State of Haryana and others”*, 2003(1) RSJ, 795**, wherein in such circumstances, the person, who was working on the current duty charge was held entitled for the salary of the higher post.

I am of the view that the stipulations in the orders Annexures P-7(R-1) and P-8(R-2) that the petitioner will get the salary of the Superintendent Grade-I are contrary to law and are struck down. Once, the petitioner was given the current duty charge of promotional post and he

worked as such on the higher post, he is entitled to the salary of the said post along with the consequential benefits.

Accordingly, the present petition is allowed and the respondents are directed to release the salary of the Administrative Officer-2 and that of Registrar to the petitioner w.e.f. the date the petitioner took the charge of the Administrative Officer-2 and the Registrar, in pursuant to the orders Annexures P-7 and P-8 till the date he discharged the duty as such along with the consequential benefits as per rules. The petitioner shall also be entitled for the interest @ 9% per annum. The respondents are ordered to release the arrears with interest within three months from the date of receipt of certified copy of this order, as per rules.

(KULDIP SINGH)
JUDGE

December 20, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes