

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.16769 of 2011

Arun Kumar ... Petitioner

Versus

State of Punjab and another ... Respondents

2. CWP No.16093 of 2011

Bhupinder Singh ... Petitioner

Versus

State of Punjab and another ... Respondents

Date of Decision: 05.01.2016

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

Present: Ms. Jatinderjit Kaur, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl. AG, Punjab.

Ms. Deepali Puri, Advocate,
for R-2 in CWP No.16769 of 2011.

Mr. R.S. Modi, Advocate,
for R-2 in CWP No.16093 of 2011.

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

RAJIV NARAIN RAINA, J.

1. This order will dispose of CWP No.16769 of 2011 titled *Arun Kumar vs. State of Punjab and another* & CWP No.16093 of 2011 titled *Bhupinder Singh vs. State of Punjab and another* since both the petitions

involves the same question. The facts are taken from CWP No.16769 of 2011 for the sake of convenience.

2. The challenge in this petition is to the disputed entry in the service book of the petitioner arbitrarily changing his date of promotion as Sub Fire Officer from December 09, 1998 to June 01, 1999. Indisputably, the impugned adverse order has been passed on file without communicating the same to the petitioner. This Court has thus no doubt, in the circumstances, to treat the adverse entry in the service book as one passed behind the back of the petitioner and one which is vitiated. Then the same deserves to be set aside for abject breach of principles of natural justice and the rule of hearing. Hearing ought to have been given to the petitioner before the entry was recorded which is clearly adverse to his interest.

3. Nevertheless, instead of keeping this matter pending for any further consideration or to render judgment, the better course to the mind of this Court would be to set aside the impugned entry by issuing a writ of certiorari to make way for re-consideration afresh. It is so ordered.

4. Therefore, while setting aside the impugned entry, a direction is simultaneously issued to respondent No.1 to re-consider the matter after affording an effective opportunity of hearing to the petitioner and after keeping in view the case law cited by him in his representation/appeal. To this end the competent authority would pass a reasoned order dealing with the points in issue in accordance with law and as per rules. The final order passed would have to be duly communicated to the petitioner and he would be at liberty to challenge the same, in case it goes against his interest. But in case there is merit found in the grievance of the petitioner against *ex parte*

alteration of his date of promotion then the same can be redressed without there being any necessity of making an order in writing and in such circumstances the impugned entry can be reversed by hand.

5. As a consequence of the above, both the petitions are allowed to the extent indicated above. However, in making this order the Court expresses no opinion on the merits of the case which consideration, in the first instance, will be that of the person competent.

**(RAJIV NARAIN RAINA)
JUDGE**

05.01.2016
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