

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

**CWP No.11343 of 2015
Date of decision: 22.08.2016**

Som Raj

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Rohiteshwar Singh, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab
for the respondents-State.

Daya Chaudhary, J.

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to assign seniority to the petitioner from the date of his initial appointment i.e., 10.04.1978 and also to grant seniority No.2457 in the seniority list of Conductors and to promote him with retrospective date at par with his juniors along with all consequential benefits.

Briefly, the facts of the case as made out in the present writ petition are that the petitioner was initially appointed as Ticket Verifier in Punjab Roadways, Chandigarh on 10.04.1978. Thereafter, the petitioner was ordered to be transferred to Punjab Roadways, SAS Nagar, Mohali/Ropar. On 17.12.1979, the General Manager, Punjab Roadways, SAS Nagar, Mohali/Ropar passed an order, whereby, services of the petitioner were

ordered to be discontinued. On 18.11.1981, the petitioner was again

appointed as Conductor in Punjab Roadways, Pathankot and he was working as Sub-Inspector under the control of General Manager, Pathankot. In the year 1993, the petitioner filed a civil suit for claiming the benefits of seniority, promotion, annual grade increments and other incidental benefits from the date of his original appointment. The said civil suit was decreed with costs and the petitioner was held entitled for the benefits of seniority, promotion, annual grade increments and other incidental benefits along with interest. The respondent-Department filed appeal against order passed by the Civil Court but the same was dismissed by the Appellate Court on 17.04.2002. The judgment passed by the Civil Court attained finality. Subsequently, the services of the petitioner were regularized as Ticket Verifier by the previous Roadways Depot i.e., General Manager, Punjab Roadways, Roopnagar vide order dated 15.05.2009 and the General Manager, Punjab Roadways, Chandigarh vide order dated 20.04.2011 regularized his services w.e.f.10.04.1978 to 17.11.1981. All the benefits were given and entry in the service book was also recorded.

The claim of the petitioner in the present writ petition is that he be assigned seniority at No.2457 in the cadre of Conductors from the date of his initial appointment i.e., 10.04.1978.

Learned counsel for the petitioner submits that the petitioner is entitled for seniority at No.2457A from the date of his initial appointment in the seniority list of Conductors but in spite of decision passed in civil suit as well as dismissal of appeal filed by the respondents, no action has been taken in this regard. The petitioner was ordered to be promoted as Sub-Inspector vide order dated 02.04.2012 passed by respondent No.2 but despite of recommendations made in this regard, the seniority has not been

fixed. Learned counsel further submits that the petitioner made representation on 04.09.2012 but the same is still pending. Moreover, juniors to the petitioner, who were appointed in the year 1986, have already been promoted to the rank of Inspector but benefit has not been granted to him till date. Similarly, from the list of Conductors, the persons, who were appointed in the year 1980 have also been promoted to the post of Inspector in the years 2012 and 2013 but the petitioner has been denied the benefit of promotion to the post of Inspector. At the end, learned counsel for the petitioner submits that the services of the petitioner had been ordered to be regularized w.e.f.10.04.1978 by different depots vide separate orders and all the benefits have been granted including making of entry in the service book but the benefit of seniority has not been granted from the date of his initial appointment i.e., 10.04.1978.

Learned State counsel has not disputed the date of initial appointment of the petitioner as Ticket Verifier as well as appointment as Conductor on 18.11.1981 and submits that the action of the respondents is not discriminatory and arbitrary as the representations made by the petitioner are still pending.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the documents available on the file.

The facts with regard to filing of civil suit, decision in civil suit as well as dismissal of the appeal are not disputed. It is also not disputed that the petitioner has been promoted but his seniority has not been fixed whereas his juniors have already been promoted. It has been admitted in the

to respondent No.2 but no action has been taken and the same is still pending. It is also admitted in the written statement that the representations filed by the petitioner are still pending before respondent No.2.

Keeping in view the submissions made by learned State counsel that the representations filed by the petitioner are still pending before respondent No.2 and also the fact that all the benefits on the basis of initial date of appointment have been granted but the seniority has not been fixed so far, the present writ petition is disposed of with a direction to respondent No.2 to consider the representations (Annexures P-6, P-8 and P-10) moved by the petitioner and take necessary action by considering the initial date of appointment in view of decision passed in civil suit as well as official order dated 17.12.2014 (Annexure P-12) by passing a speaking order within a period of three months from the date of receipt of certified copy of this order. In case, the petitioner is found entitled for the relief claimed in the representations as well as legal notice dated 05.10.2013, the same be granted to him within a period of two months thereafter. In case, any adverse order is passed, the petitioner is at liberty to avail the appropriate remedy.

Disposed of accordingly.

22.08.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

√
Yes/No

Whether Reportable

√
Yes/No