

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 17734 of 2012

Date of Decision : February 15, 2016

Madan Lal Bansal Petitioner
vs.
State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Jaspal Singh Maanipur, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

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DEEPAK SIBAL, J. :

The petitioner has filed the present petition with a dual prayer. He seeks quashing of part of the order dated 09.02.2012 (Annexure P-9), wherein he has been ordered to be promoted as Stenographer w.e.f. 30.11.2005. He prays that he be treated as Stenographer w.e.f. 13.01.1982 instead of 30.11.2005. The second prayer made is that though through the aforesaid order dated 09.02.2012, he has been given a deemed date of promotion as Stenographer, no arrears have been awarded. He prays for the award of such arrears and other consequential benefits.

So far as the first prayer made by the petitioner with regard to seeking promotion as Stenographer w.e.f. 13.01.1982 is concerned, the same cannot be granted and the reasons to come to such conclusion are that in the year 1982, promotion to the post of Stenographer was covered by the Punjab Public Works Subordinate Service (Building & Roads) Branch Rules, 1934 (hereinafter referred to as – the 1934 Rules) and as per these Rules, a Graduate from a recognized University, who had passed the test, as may be prescribed by the Superintending Engineer, was eligible to be promoted as a Stenographer. It is the uncontroverted case between the parties that in the year 1982, through letter dated 13.01.1982, the Superintending Engineer, PWD, Public Health Circle, Rohtak had prescribed as essential the passing of a test in English Shorthand and Typewriting for seeking promotion as a Stenographer. Even Hindi Stenotypists were required to pass the test as, on promotion, the Stenographers were required to work with the Superintending Engineers, who were also to act as Arbitrators and in such capacity, were required to dictate technical notes, for which knowledge of English dictation and typing was essential. It is the admitted position that the petitioner never passed the aforementioned Shorthand test of English language. He was thus rightly not promoted till the time the aforementioned letter was in operation.

In the year 1989, the 1934 Rules were repealed and they were substituted by the Haryana, Public Works Department, Public Health Branch, Circle Cadre, Ministerial (Group-C) Service Rules, 1989

(hereinafter referred to as – the 1989 Rules). As per Rule 9 read with Appendix B of the 1989 Rules, a Steno-typist, for further promotion as a Stenographer, was required to qualify the departmental test in English Shorthand at the speed of 100 w.p.m. (words per minute) and transcription thereof at the speed of 20 w.p.m., and also test of Hindi Shorthand at the speed of 80 w.p.m. with transcription thereof @ 15 w.p.m. It is the admitted position that till the date of his retirement, the petitioner never passed the aforementioned departmental test and was thus rightly not promoted. However, on 30.11.2005, a person junior to him namely Satpal Dua, who had also not passed the aforementioned tests, by grant of relaxation, was promoted to the post of Stenographer. Keeping in view this fact, the petitioner, after grant of relaxation, has also been granted promotion w.e.f. 30.11.2005 i.e. from the date his junior had been promoted.

While alleging discrimination, it is submitted on behalf of the petitioner that Veena Kumari, Arjuna Kumari and Amir Chand, who were all Steno-typists and had not passed the Stenography test, had been promoted. In response thereto, it is submitted on behalf of the State that Arjuna Kumari and Amir Chand were both senior to the petitioner and had been promoted as Stenographers prior to the year 1982 i.e. before the imposition of the condition of passing of Stenography test through order dated 13.01.1982 of the Superintending Engineer. So far as Veena Kumari is concerned, it is submitted that though she was junior to the petitioner, she was promoted as a Stenographer on 09.11.2000 only after she had passed

the prescribed Stenography test. The aforesaid factual position is not disputed by the learned counsel for the petitioner. Thus, there is no discrimination on the part of the respondents, as alleged.

The second issue raised on behalf of the petitioner, in my opinion, deserves to be decided in favour of the petitioner. It is the uncontroverted position that Satpal Dua, who was junior to the petitioner and like the petitioner, had also not passed the Stenography test, was granted relaxation and promoted to the post of a Stenographer w.e.f. 30.11.2005. Once the Government decided to grant relaxation from passing of English Stenography test, then it could not have bye-passed the petitioner vis-a-vis the aforementioned Satpal Dua, who was admittedly junior to the petitioner. If the promotion had to be granted by relaxation, then the person, who is senior, should have been preferred. The petitioner was thus precluded from working on the promotion post w.e.f. 30.11.2005, for no fault on his part. To this extent, the action of the State is arbitrary. The petitioner is thus held entitled to all consequential benefits of the promotional post of Stenographer, including arrears of pay, w.e.f. 30.11.2005.

The writ petition stands disposed of in the above terms.

(DEEPAK SIBAL)
JUDGE

February 15, 2016

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