

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P. No. 19974 of 2013

Reserved On : May 24, 2016

Pronounced On : July 22, 2016

H. R. Mehta Petitioner

vs.

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Rajesh Hooda, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

* * *

DEEPAK SIBAL, J. :

Shorn of unnecessary details, the facts, which are borne out

from the record of the case and which have emerged from the arguments

raised at the bar are that on 02.12.1983, the petitioner was appointed in the office of the Inspector General of Prisons, Haryana as a Steno-typist on regular basis and vide order dated 22.12.1997, he was promoted to the post of Junior Scale Stenographer, on which post, on 03.12.1999, he was confirmed. Thereafter, on 04.07.2001, the petitioner was promoted to the post of Senior Scale Stenographer and his confirmation on this post was through order dated 02.11.2001.

The services of the petitioner are governed by the Punjab Jail Department, Clerical and Technical Service (Class III) Rules, 1962 (hereinafter referred to as – the Rules), which provide for further promotion from the post of Senior Scale Stenographer to the post of Deputy Superintendent. However, no such promotion was offered to the petitioner as he, through order dated 09.03.2005, was promoted to the post of Personal Assistant, which is not a post in the line of promotion under the Rules. Thereafter, when one Devender Kumar, who was junior to the petitioner as a Senior Scale Stenographer, was promoted to the post of Deputy Superintendent, through order dated 03.09.2009, the petitioner was given proforma promotion to the post of Deputy Superintendent w.e.f. the same

date i.e. 03.09.2009.

While the petitioner served the respondents on the post of Personal Assistant, a tentative seniority list of the clerical staff (Group-C) (Head Office Cadre) of the Prisons Department, Haryana was circulated but while deciding the issue of inter-se seniority, through the impugned order dated 22.02.2013 (Annexure P-12), the order dated 03.09.2009, granting proforma promotion to the petitioner as Deputy Superintendent, was ordered to be withdrawn primarily on two grounds, which were that the petitioner had opted for promotion to the post of Personal Assistant and therefore, forfeited his promotion to the post of Deputy Superintendent and that after his appointment to the post of Personal Assistant, the petitioner had no lien in the line of promotion from the post of Senior Scale Stenographer to the post of Deputy Superintendent, under the Rules.

It is in the background of the afore-referred facts that the petitioner has knocked the doors of this Court seeking quashing of order dated 22.02.2013 (Annexure P-12), as also for the issuance of a direction to the official respondents to promote the petitioner as Superintendent after deciding the issue of seniority of the petitioner vis-a-vis respondent no. 3 on

the post of Senior Scale Stenographer/Assistant.

After hearing counsel for the parties and with their able assistance, having perused the record, I am of the opinion that since the impugned order, through which the petitioner's promotion to the post of Deputy Superintendent has been ordered to be forfeited, was passed without any notice or any opportunity of hearing to him, the same needs to be set aside on this short ground alone as there can be no doubt that the same is pre-judicial to the rights of the petitioner.

Accordingly, order dated 22.02.2013 (Annexure P-12), so far as it orders forfeiture of the promotion of the petitioner as Deputy Superintendent, is quashed, being in violation of the principles of natural justice. However, the official respondents would be at liberty to take a fresh decision after following the principles of natural justice, in accordance with law. Such decision be taken within three months from the date of receipt of a certified copy of this order.

After the afore-referred decision is taken, subject to the same, the issue of seniority of the petitioner vis-a-vis respondent no. 3 be taken within two months thereafter, of course after following the principles of

natural justice.

The writ petition stands allowed in the above terms.

**(DEEPAK SIBAL)
JUDGE**

July 22, 2016

monika