

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

**CWP No.3536 of 2012 (O&M)
Date of decision : July 21, 2016**

Devender Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vikramjeet Singh, Advocate for the petitioner.

Mr. Gagandeep Singh Wasu, Addl. A.G., Haryana.

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 ?

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KULDIP SINGH J. (ORAL)

Petitioner, who has now retired as Sub Inspector (Accounts) from Haryana Police seeks the writ of mandamus for directing the respondents to promote him to the post of Inspector w.e.f. 26.11.2003 i.e. the date from which he has become eligible to be promoted as Inspector with all consequential benefits, including arrears, seniority etc.

Petitioner joined the Haryana Police on 14.01.1975. He was approved in the Accounts Branch on 10.03.1976. He was promoted as Head Constable on 26.11.1979 and confirmed as such on 26.11.1981. After serving in the said branch for 10 years, he was promoted to the post of ASI on 05.03.1991 and was confirmed as such w.e.f. 05.03.1993. Later on, he was promoted as officiating Sub Inspector of Police (Accounts) w.e.f. 26.11.1998 and was confirmed as such on 31.01.2001.

According to the petitioner, the State of Haryana, vide letter No.7/39/79/HGI, dated 31.05.1979 for the first time, created the post of Welfare Inspector in all Districts. On 30.09.1998, the Financial Commissioner and Secretary to Haryana Government, Home Department circulating another letter upgraded the posts of Executive Clerks of Accounts and English Branches, in such a way, Sub Inspectors of Accounts Branch were made eligible for promotion as Welfare Inspector of Police.

According to the petitioner, he was eligible to be appointed for the post of Inspector w.e.f. 26.11.2003. Since then, he was working as Sub Inspector in the Accounts Branch. He made various representations since 2003. However, he was not promoted. He was the senior most of the Executive Clerks Cadre (Accounts Branch). It was also stated that SI Ram Niwas was promoted as Sub Inspector on 21.06.1999 had been promoted as Inspector of Police w.e.f. 19.11.2004, whereas the petitioner was working as Sub Inspector (Accounts) since 26.11.1998.

The State in its reply has taken the stand that there were two separate wings in the Executive Clerk Cadre i.e. English Branch and Accounts Branch, for which separate seniority was maintained. Prior to the year 1998, the English Branch was being headed by Sub Inspector (Head Clerk) and Accounts Branch was being headed by ASI (Accountant). In the year 1979, the State Government created 21 posts of Welfare Inspector in Police Department, vide letter No.7/39/79/HGI, dated 31.05.1979. Thereafter, the Inspector General of Police (now Director of General of Police), Haryana decided to provide five posts out of the abovementioned 21 posts of Welfare Inspectors for promotion to the members of the

Executive Clerical Cadre, so that they could get the chance of promotion to the rank of Inspector Welfare on adhoc basis only. It was stated that the Executive Police Cadre and Executive Clerical Cadre are entirely different. Therefore, one cadre has not the right of seniority or promotion in the other cadre. In the year 1998, the posts of Sub Inspectors (Head Clerks) were upgraded to the rank of Inspector (Establishment) and Assistant Sub Inspectors (Accountant) to Sub Inspector (Accountant) by the Government, vide letter No.10/06/90-4HGI, dated 30.09.1998. Since then, Sub Inspectors (Head Clerks) of English Branch are promoted to the rank of Inspectors (Establishment).

It was further pleaded that since there is no sanctioned post of Inspector in Accounts Branch, the petitioner is not entitled to the promotion of Inspector as claimed. Hence, his representation was rejected, vide letter No.3266/E(III)-1, dated 20.04.2007. Regarding the claim of Sub Inspectors, namely, Om Parkash and Madan Lal of Accounts Branch, who were promoted as Inspector, it was stated that it was erroneously done as certain facts were not brought to the notice of concerned authority. The said officers are now stated to have retired.

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

Admittedly, in the Executive Clerical Cadre, there are two branches i.e. English Branch and the Accounts Branch. Five posts of Welfare Inspector were sanctioned in the year 1979, which were available to the Executive Clerical Cadre. Admittedly, there was separate seniority for both the Branches. The petitioner is required to prove that in the said

separate seniority, he was senior-most and the sanctioned post was available for his promotion and it was wrongly denied.

I am of the view that the petitioner has miserably failed to prove that in the said Executive Clerical Cadre, he was senior-most. Though, he was senior-most in the Accounts Branch, for which there was separate seniority. He had to show that a sanctioned post was available. He has also failed to show that five sanctioned posts were available for the Members of the Accounts Branch, for which, there was separate seniority.

Regarding two cases as referred by the petitioner, I am of the view that if wrong order was passed, no action can be taken on account of their retirement,. Therefore, it does not confer any vested right for the promotion. It being so, I do not find any merit in the present case.

Accordingly, the present writ petition is dismissed.

(KULDIP SINGH)
JUDGE

July 21, 2016

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