

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 24086 of 2015 (O/M)
Date of decision : 29.11.2016

Mohinder Singh

..... Petitioner (s)

Versus

State of Punjab and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Petitioner in person.

Ms. Monica Chhibber Sharma, Deputy A.G. Punjab.

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 ?

-. -

-. -

KULDIP SINGH J. (ORAL)

The facts of the case as derived from the pleadings on file are that the petitioner Mohinder Singh, who ultimately retired as a Joint Director, Hospitality Department, Punjab, Chandigarh, was previously working in the Hospitality Department, Punjab. He applied through the Punjab Public Service Commission and was appointed as an Assistant Treasury Officer on 24.11.1972. He worked as such on the said post. It appears that he was having lien over his post with his parent Hospitality Department, Punjab. On 16.7.1981, at his own request, he joined his parent Hospitality Department, Punjab, from where he retired as a Joint Director on 30.6.1993. One Piara Singh was appointed as an Assistant Treasury Officer on 3.5.1967. As per the stand of respondents, the name of said Piara Singh

CWP No. 24086 of 2015 (O/M)

existed at Serial No. 27 and that of petitioner was at Serial No. 34, as per the seniority list dated 1.8.1981, issued on 19.5.1982. The name of another employee, namely, Hardit Singh Gulati was appearing at Serial No. 21. The petitioner claims that both of them were junior to him. However, as per the stand of respondents, Piara Singh and Hardit Singh Gulati were granted the selection grade as they were senior to the petitioner. The selection grade was admissible to 20% of the Assistant Treasury Officer on the basis of seniority list, who had completed 15 years of service as per clause (ii) of notification dated 8/30/78-FR(5)/1843 dated 3rd March, 1980.

According to the respondents, the petitioner never completed 15 years of service and he joined his parent department at his request after putting in less than 9 years of service as an Assistant Treasury Officer. Therefore, he was otherwise not entitled to selection grade. It is the further stand of the respondents that the petitioner was selected as an Treasury Officer through Punjab Public Service Commission as a candidate of general category. In the application form dated 16.11.1971, submitted to the Punjab Public Service Commission, he had specifically stated 'No' to the question whether he belongs to the backward class, but still his name was included as officer belonging to backward class and was mentioned as such at Serial No. 34 of the seniority list. He had left the treasury department before becoming eligible for next promotion.

The petitioner claims that the said Piara Singh, Assistant Treasury Officer was his junior. He was granted two additional increments. He obtained information under the Right to Information Act, 2005, in the year 2015 and came to know that the selection grade was also granted to junior ATOs. He further claims that the seniority list (Annexure-P-2), now

CWP No. 24086 of 2015 (O/M)

-3-

recasted as Annexure-P-6 is incorrect. The petitioner retired from service on 30.6.1993 as a Joint Director from the Hospitality Department, Punjab.

I have heard the petitioner, who appeared in person, the learned State counsel and have also carefully gone through the file.

In this case, the petitioner has challenged the seniority list, which was issued as on 1.8.1981 on 19.5.1982 (Annexure-P-2). It is apparent that the petitioner was earlier working with Hospitality Department, Punjab, and applied for the post of Assistant Treasury Officer through the Punjab Public Service Commission. He joined as an Assistant Treasury Officer on 24.11.1972. Later on, apparently on account of his lien in the parent department, he went back to his parent department at his own request on 16.7.1981. Therefore, he served as an Assistant Treasury Officer for little less than 9 years. He claims that he is senior to Piara Singh. The seniority list was circulated on 19.5.1982 as on 1.8.1981, when the petitioner had already left the treasury department. Once the petitioner reverted to his parent department, he has got no claim of seniority in the treasury department, which he had abandoned. The seniority list shows that Piara Singh and Hardit Singh Gulati, who were at Serial No. 27 and 21 respectively and were senior to him.

The petitioner claims that he was not given the benefit of backward class.

The petitioner retired on 30.6.1993 while he was working as a Joint Director with the Hospitality Department, Punjab. The present writ petition was filed much later in the year 2015. I am of the view that after 33 years of the issuance of the seniority list (Annexure-P-2) and 23 years of the retirement of the petitioner, the seniority matter cannot be reopened. The

CWP No. 24086 of 2015 (O/M)

writ petition of the petitioner is badly barred by delay and latches. Otherwise, there is nothing to show that the seniority list was incorrectly prepared.

Rule 10 of the Punjab Treasury Establishment Subordinate Services (Class-III) Rules, 1962 is reproduced as under :-

“Seniority

Rule 10. The seniority of the members of the services shall be determined by the dates of joining their appointments on the same date, the seniority shall be determined as follows :-

- (a) A member recruited by direct appointment shall be senior to a member recruited otherwise.
- (b) A member recruited by promotion shall be senior to a person recruited by transfer.
- (c) In the case of members who are recruited by promotion, according to the seniority in the appointments from which they are promoted.
- (d) In the case of members who are recruited by transfer, according to their seniority in the appointments held by them.”

Even if the said rule is applied, a person, who is appointed earlier to the petitioner, is bound to be senior to him. Therefore, the petitioner is not entitled to the relief claimed by him by getting increment equal to his seniors and selection grade. equal to seniors.

It also comes out that the petitioner had earlier filed CWP -16188-2012 before this Court, which was decided on 30.4.2015, wherein he had claimed the benefit of revision of pay scale from 1.1.1978 to 15.7.1981 alongwith onward annual increments till 15.7.1981 i.e. the day the petitioner remained and served as ATO and also re-fixation of his pay by the Punjab Hospitality Department from where the petitioner had superannuated. He had also claimed the interest on the delayed payment.

CWP No. 24086 of 2015 (O/M)

In the said earlier writ petition, the present claim was not made. The petitioner is not allowed to split up his claim and file one writ petition regarding one cause of action arising out of his service and file the separate writ petition after the decision of the first writ petition, regarding cause of action, which was available to him earlier as well when he had filed the first writ petition. Accordingly, the present writ petition is found to be frivolous, badly barred by delay and laches and also bad for splitting up of the claim. The same is accordingly dismissed.

(KULDIP SINGH)
JUDGE

29.11.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No