

CWP No. 25785 of 2014 (O&M)

1

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

**CWP No. 25785 of 2014 (O&M)
Date of Decision : 03.08.2016**

Kulwinder Singh

...Petitioner

Versus

Punjab & Sind Bank and others

...Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Ravinder Malik, Advocate for the petitioner.

Mr. R. Kartikey, Advocate for the respondents.

P.B. Bajanthri, J.(Oral)

CM No. 9078-CWP of 2016

Application is allowed, as prayed for.

Written statement filed on behalf of the respondents is taken on record.

Main Case

In the instant writ petition, the petitioner has assailed the order dated 21.11.2014 (Annexure P-16) passed by respondent No. 1, whereby petitioner's claim for out of turn promotion to the post of Office Cadre (JMGS-I) from the post of Clerical under Sports quota had been rejected.

Brief facts of the case are that petitioner is stated to be International Hockey Player, who had represented the Country on number of occasions. Due to his achievement respondent-Bank recruited him as a

Clerk under the Sports quota in the month of July 2001. The petitioner's grievance is that he is entitled to be promoted to the Cadre of JMGS-I under Sports quota as per the guidelines issued on 29.06.1998. Para-C of the National Level (guidelines) reads as under :-

“(c) The out of turn promotion in case of performance at the National Level is to be granted to the players who have ACTUALLY PLAYED ON THE FIELD and not merely to a member of the winning team.”

The above clause has been interpreted by the respondents that the petitioner as on the date of submission of application on 29.01.2008 seeking promotion under sports quota, he stopped playing hockey. The object of giving out of turn promotion to encourage the sports person who was working in the Bank. Therefore, the petitioner's claim cannot be considered by the respondent-Bank. Aggrieved by the decision of the respondent-Bank, petitioner has presented this petition seeking for quashing order dated 21.11.2014 (Annexure P-16).

Learned counsel for the petitioner submitted that having regard to the guidelines regarding out of turn promotion in case of performance at the National Level is to be granted to the players, who have actually played on the field and not merely to a member of the winning team, there is no clause in the guidelines for the purpose of granting out of turn promotion that bank employees should continue to play in particular sports event. In the absence of the same, respondents cannot reject name of the petitioner saying that petitioner is not playing as on the date of submission of application for promotion. Learned counsel for the petitioner further

submitted that large number of employees were promoted out of turn in the year 2006. In fact one Mr. Mandeep Singh, who was appointed along with the petitioner on 26.07.2001, has been promoted on 23.11.2006. Therefore, reasons assigned for not considering the petitioner's name for promotion to the Cadre of JMGS-I is arbitrary and contrary to the guidelines for out of turn promotion for performance at National Level. During pendency of this petition, petitioner was promoted on 08.02.2016 in the normal course. Therefore, petitioner is entitled to retrospective promotion from 2008.

Per-contra, learned counsel for the respondents submitted that though guidelines do not prescribed that an employee should be continued to play as on the date of seeking for out of turn promotion but in the present case, petitioner stopped playing since 2007 and his application for promotion is of 29.01.2008, therefore, respondents have taken correct decision having regard to the object of guidelines and as such there is no infirmity in the order dated 21.11.2014 (Annexure P-16).

Heard learned counsel for the parties.

Short question for consideration in the present petition is, whether petitioner is entitled for out of turn promotion to the post of Office Cadre (JMGS-I) under sports quota or not? The guidelines issued in the year 1998 is silent whether an employee is to be given out of turn promotion on the condition that such employee should be playing as on the date of considering his name for out of turn promotion for performance at National Level. In the absence of specific condition or eligibility criteria for out of turn promotion, the respondents cannot assume or interpret which is not forthcoming in the guidelines saying that for the purpose of granting out of

turn promotion, an employee should be continued to perform at National Level. The respondents cannot insist that an employee should be playing at National Level and his performance is to be taken into consideration for the purpose of out of turn promotion for the reasons that if an employee is appointed as a Clerk at the age of 30 years and after completion of 10 years, if an employee is eligible for out of turn promotion, the respondent-Bank cannot expect a 40 years' employee to be a participant in the National Level event.

In view of these circumstances, denial of out of turn promotion to the petitioner is highly arbitrary and illegal. Hence, order dated 21.11.2014 (Annexure P-16) is set-aside. The respondent-Bank is directed to re-consider the petitioner's claim for out of turn promotion on par with the others and so also with reference to revised guidelines (Annexure P-2) for out of turn promotion in Bank. Even the subject matter of the guidelines do not indicate whether sports person should be playing or not? In the light of the above discussion, the respondents are directed to re-consider the petitioner's claim for retrospective promotion to the Cadre of Office Cadre (JMGS-I) from the date of application seeking for out of turn promotion i.e. 29.01.2008 within a period of three months from today.

Petition stands disposed of.

August 03, 2016.
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(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasoned? Yes

Whether reportable? No