

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25341 of 2015 (O&M)
Date of Decision: 12.08.2016

Manoj Kumar

... Petitioner

Versus

Chaudhary Charan Singh Haryana Agricultural
University, Hisar and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

Mr. Padamkant Dwivedi, Advocate,
for respondents No.1 and 2.

RAJIV NARAIN RAINA, J.(Oral)

There are two sources of promotion from the post of Clerk to Assistant. Graduates with two years experience are eligible for promotion whereas undergraduates require five years experience to their credit, both subject to availability of regular vacancies. The petitioner was reverted from the post of Assistant by order dated November 23, 2015 by the Registrar of the University for obtaining using a degree from a study centre of an unrecognized University being the Eastern Institute of Integrated Learning in Management University, Jorethang, District Namchi, Sikkim which University was not granted any permission/approval by the UGC, New Delhi to establish any off Campus Centre(s)/Study Centre(s)/Off-shore Centre(s) as intimated by the Under Secretary, University Grants Commission, New Delhi vide their No.F.5-1/2015 (CPP-I/PU) dated 09.09.2015 to the employer.

Mr. Maanipur no longer disputes the degree being not recognized and of no use for purposes of promotion. However, it is his case that despite reversion his claim should have been considered as an undergraduate with five years experience, which attributes he has earned and possesses. The petitioner belongs to the reserve category of scheduled caste. A junior namely, Surender Kumar, Clerk then posted to RDS Seed Farm belonging to the same reserved category was promoted as Assistant vide order dated September 12, 2013 from the category of undergraduate with 5 years experience, which establishes that there was a clear vacancy available for promotion and because person junior to him has been promoted as Assistant, the petitioner has a demonstrable right to be considered for promotion from that date. It is not a disputed fact that Surender Kumar was junior to the petitioner in the cadre of Clerks.

Quite apparently, the petitioner has a case, not against the impugned reversion order dated November 23, 2015, but for consideration for promotion as Assistant with effect from the date Surender Kumar was promoted as an Assistant on September 12, 2013 from under-graduate feeder source. It may be noted that the petitioner had been promoted as an Assistant on March 04, 2013 which promotion has been withdrawn by the impugned order when it was discovered that his degree was not recognised rendering him ineligible for promotion from graduate clerks.

For the foregoing reasons, this petition is dismissed qua the promotion order dated March 04, 2013.

No interference is called for in the order dated November 23, 2015. The order dated November 23, 2015 will be read as against the

promotion from the graduate quota but will have no bearing on the petitioner's right to promotion as a Matriculate with five years experience.

This petition is partially allowed and a direction is issued to the University to consider the case of petitioner for promotion from the undergraduate quota with five years experience from the date Surender Kumar was promoted as Assistant provided it is established beyond doubt that the petitioner is senior to Surender Kumar in the seniority list. The other parameters of promotion will be kept in mind, that is, the service record of the petitioner and whether is sufficient to earn promotion from the due date. The needful be done within a period of two months from the date of receipt of certified copy of this order. In case, the petitioner is promoted he will take seniority benefits from the date the junior was promoted. Pecuniary benefits will accrue from November 23, 2015. However, difference of arrears of salary of the higher post from where he was reverted will not be open to recovery on ground of work done.

Since the main case has been decided no orders are required to be passed on the stay vacation application.

(RAJIV NARAIN RAINA)
JUDGE

12.08.2016

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No