

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

CWP No. 5339 of 2015

Date of decision : 13.06.2016

Sewa Ram Saini (Retd)

...Petitioner

versus

H.P.G.C.L and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naveen Daryal, Advocate
for the petitioner.

None for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI , J.

The petitioner is seeking writ in the nature of certiorari for quashing order dated 21.01.2014 (P-9), order dated 19.05.2014 (P-11) and order dated 02.02.2015 (P-13), vide which the claim of the petitioner has been rejected for removing the anomaly at par with his junior Nafe Singh, Assistant and further prayer is for issuance of direction to the respondents to give deemed date of promotion to the petitioner w.e.f 16.04.1987 in the cadre of U.D.C.

Petitioner joined DAE as on 23.03.1979 and joined as U.D.C

on 12.03.1983 in the erstwhile HSEB now H.P.G.C.L. He was promoted to the post of Assistant and joined on 17.03.2004. Subsequently, he retired on 31.10.2007 after attaining the age of superannuation.

Before retirement, petitioner gave a representation dated 04.09.2007 for claiming deemed date of promotion w.e.f 04.07.1991, as has been granted to Hewa Singh Malik in the cadre of U.D.C. The same was granted to the petitioner, vide order dated 05.07.2011 at par with his junior Hewa Singh Malik.

The grievance of the petitioner before this Court is now that his junior Nafe Singh was also allowed deemed date of promotion on the post of Assistant w.e.f 16.04.1987 and thus, petitioner is entitled for the same. Petitioner being senior is drawing less pension than Nafe Singh. The representation given by the petitioner was rejected on the ground that why he had not represented for the deemed date of promotion at par with Nafe Singh at first instance.

On notice, a written statement has been filed on behalf of respondents stating therein that Nafe Singh was granted the benefit inadvertently and the petitioner cannot be granted the same benefit at par with Nafe Singh as merely granting the wrong benefits to any employee does not conform any right in favour of the petitioner for claiming the same.

Reference has been made to a judgment of this Court in a case of ***Raghubir Singh vs. PSEB, 2016(1) SCT 538*** wherein it has been held that if some wrong benefit has been granted to an employee, who may be similar situated to the others, that would not confer any right upon the other to claim same benefit.

Reference has been made to a judgment of Hon'ble the Supreme Court in a case of ***HSEB and others vs. Gulshan and others passed in Civil Appeal No. 3336/2009, decided on 06.05.2009*** wherein also it has been held that a wrong decision in favour of any particular party does not entitle any party to claim the benefit on the basis of wrong decision.

After going through the contents of the case and the written statement, the writ petition deserves to be dismissed.

It is not disputed that Nafe Singh and I.C. Kaushik were granted the benefit of deemed date of promotion with their counterpart of HVPNL, vide officer order dated 05.03.2008, in view of CWP No. 9342 of 1988, decided on 10.09.1992 and judgment in LPA No. 192-194 of 1993, decided on 24.02.1998. The judgment has attained finality. However, the benefit has wrongly been granted to Nafe Singh, as admitted by the respondents and thus, petitioner cannot claim parity, as held by this Court as well as by the Hon'ble Supreme Court.

Moreover, petitioner retired on 31.10.2007 and his claim for deemed date of promotion at par with Hewa Singh Malik has been accepted by the department and he had not sought any parity with Nafe Singh at first instance, who retired on 28.02.2013 and thus there is a gap of 06 years in the date of superannuation of the petitioner and Nafe Singh and the petitioner cannot claim parity. Petitioner has not filed any replication to controvert these facts.

In view of the facts mentioned above, the writ petition is dismissed.

(RITU BAHRI)
JUDGE

13.06.2016

G Arora