

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

**CWP No. 5325 of 2016 (O&M)
Date of decision: 21.03.2016**

Sub. Uma Shankar Verma

....Petitioner

Versus

Union of India and others

.... Respondents

**CORAM: Hon'ble Mr. Justice Surya Kant
Hon'ble Mr. Justice P.B. Bajanthri**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Sudhanshu Makkar, Advocate for the petitioner.

P.B. Bajanthri, J.

In this petition, the petitioner has questioned the order dated 21.01.2016 (Annexure P-27) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short 'Tribunal') in O.A. No.1383/HR/2013.

2. Brief facts of the case: The petitioner joined the Department of Indian Posts and Telegraphs in the year 1983 as STG the Assistant (RTP), to a non-gazetted post. Thereafter, on 21.02.1986 he voluntarily joined Army Postal Services as a Warrant Officer. The post of Warrant Officer is equivalent to the post of Hawaldar in Army.

3. The promotional post in the P&T Department is Inspector of Post Office/Inspector of Railway Mail Service (for short IPOs and IRMs). For the purpose of promotional post to the Inspector of IPOs/IRMs source cadre persons like petitioner have to appear for departmental examination.

Amongst others petitioner appeared for departmental examination on 23/25.04.2001. Results were announced on 05.12.2001. It is learnt that name of the petitioner was not reflected. Version of the petitioner is that he was provisionally selected. Petitioner contended that on 30.05.2002 official respondents regularized the provisional selection and directed to announce the marks obtained in the departmental examination. On 16.07.2002 petitioner's marks were declared to be 58.4% in aggregate. Thus, name of the petitioner was shown at Serial No. 1 in Annexure-II to the result notification dated 05.12.2001. In the Annexure-I names of Shri Manoj Kumar and Shri Durga Dass are also reflected. Shri Laxmi Kant and Shri Manoj Kumar were given officiating certificate to the post of IPO on 25.01.2002 and 13.03.2002 respectively. Whereas, the petitioner was given officiating certificate on 14.05.2008 though with effect from 11.09.2007. Department issued seniority list of IPO on 30.06.2011 wherein names of the petitioner, Laxmi Kant and Manoj Kumar are shown at Serial No. 357, 141 and 142.

4. In this background, petitioner is stated to have applied under RTI seeking certain information relating to the filling up of promotional post of Assistant Superintendent Post Office from the post of Inspector of Post Office. The information was furnished stating that Inspectors up to Serial No. 217 have been promoted to the post of Assistant Superintendent Post Office. Consequently, the petitioner raised objections in not promoting him to the post of Assistant Superintendent Post Office and sought for rectifying the seniority of IP cadre i.e. issuance of officiating certificate in the IP cadre from 2002 the date on which Shri Laxmi Kant and Shri Manoj Kumar were given. Since there was no response from the Department he

filed O.A. No. 1383/HR/2013 on 25.09.2013, which was dismissed on 08.08.2014. Aggrieved by the order dated 08.08.2014, he preferred CWP No. 25347 of 2014. The same was disposed of with the liberty to file review application before the Tribunal. On 16.09.2015, Tribunal allowed the R.A. No.060/00033/2015 but thereafter, on 21.01.2016 O.A. 1383/HR/2013 has been dismissed. Feeling aggrieved by the order of the Tribunal, the petitioner is before this Court.

5. Learned counsel for the petitioner contended that the petitioner is entitled to get the officiating certificate to the post of Inspector Post Office from the date when his juniors, namely, Shri Laxmi Kant and Shri Manoj Kumar were given on 25.01.2002 or 13.03.2002, respectively. Since his name was provisionally selected and stood regularized on 30.05.2002 and 3 vacancies were available as on the date Shri Laxmi Kant and Shri Manoj Kumar were given officiating certificate, therefore, his name should also be reflected in the result notification dated 05.12.2001 in the Annexure-I itself instead of Annexure-II. The department is said to have committed an error in giving officiating certificate with effect from 11.09.2007 on 14.05.2008 and further erred in placing the petitioner at Serial No. 357 instead of Serial No. 143 in the IPO seniority list dated 30.06.2011 thereby denying consequential promotion to the cadre of Assistant Superintendent Post Office on par with his juniors. Due to departmental error, the petitioner should not be made to suffer in getting the service benefits. It was submitted that though there is a delay in approaching the court but he is entitled at least for notional promotional benefits.

6. We find from the record that the petitioner appeared for IP examination in the year 2001. He did not secure merit position in the

approved list of successful candidates but simply qualified the examination under the facility of regularized standards as admissible under para 87 to 89 of P&T Manual Volume IV Part II(a). As he had not completed 3 years service as Officer/JCO on the date of examination held on 23/25.04.2001 therefore, he could not be brought on approved list of IP examination-2000. In other words, the regularized standards stipulating condition of 3 years service as NbSub/JCO before bringing to the qualified candidate (not in merit) in the list of approved candidates for appointment as Inspector of Post were rightly adhered to. The petitioner was appointed to the Rank of NbsubClerk)/JCO in Army Postal Services w.e.f. 08.04.2003 (Annexure 5) and completed 3 years of service on 07.04.2006. In terms of para 88 of P&T Manual Volume IV, Para II(a) his name was correctly inserted in the approved list of last IP examination-2005 below all the candidates who were declared successful. Since the petitioner was still on deputation to Army Postal Services, he was issued officiating certificate under the next below rule as "Inspector w.e.f. 11.09.2007" the date from which his immediate junior was promoted vide order dated 14.05.2008 (Annexure A to the original application).

7. The grievance of the petitioner is surely stale. The petitioner slept over the matter between 2001 to 2013. The alleged cause of action accrued to the petitioner for the first time when his result was not announced on 05.12.2001. Thereafter, on regularization of his provisionally selection on 30.05.2002. Still thereafter, while placing his name in Annexure II at Serial No. 1 to the result notification dated 05.12.2001 on 08.07.2002. Again on 25.01.2002 and 13.03.2002 i.e. the date on which Shri Laxmi Kant and Manoj Kumar were given officiating certificate in the

cadre of Inspector Post Office. Given liberty, on 14.05.2008 also as that is the date on which the petitioner was given officiating certificate in the cadre of Inspector of Post Office w.e.f. 11.09.2007. Let us expand it to 30.06.2011, as well when the name of petitioner was shown at Serial No. 357 whereas S/Shri Laxmi Kant and Manoj Kumar were shown at Serial Nos. 141, 142, respectively. In the absence of questioning the aforesaid vital issues timely i.e. within one year from the date of accrual of cause(s) of action, the petitioner's Original Application is undoubtedly barred by limitation as rightly held by the Tribunal. We are satisfied that not only there is delay in filing the original application, but there are proven latches also on the part of the petitioner in seeking alteration of the date of officiating certificate to the cadre of Inspector Post Office from 2002 till the year 2013. Such a recourse is impermissible for the reason that between 2002 to 2013 so many developments had taken place including officiating certificate given to Shri Laxmi Kant and Shri Manoj Kumar in 2002 and their seniority was fixed on 30.06.2011, further promoting them to the Cadre of Assistant Superintendent of Post Office. Above all, the petitioner has also failed to implead his juniors to the Original Application though they are bound to be affected if the petitioner's claim is accepted.

8. In view of these facts and circumstances, the petitioner has failed to make out a case to interfere with the order of the Tribunal dated 21.01.2016.

9. The petition is dismissed.

10. No order as to costs.

21.03.2016

**(SURYA KANT)
JUDGE**

**(P.B.BAJANTHRI)
JUDGE**