

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

CWP No.7511 of 2014 (O&M)

Date of decision: 01.03.2016

Surinder Pal

...Petitioner

versus

The Panipat Cooperative Sugar Mills Ltd. and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Senior Advocate,
with Mr. Mandeep Singh, Advocate,
for the petitioner.

Mr. Naveen Bhardwaj, Advocate,
for respondent No.1.

Mr. Subhash Kaushik, Advocate,
for respondent Nos. 2 to 5.

RITU BAHRI, J.

CM No.11421 of 2015

Replication filed by the petitioner is taken on record.

Misc. application stands allowed accordingly.

CWP No.7511 of 2014

The petitioner is seeking direction to the respondents to consider his claim for promotion as Clerk from the date(s) private respondents, who are junior to him, have been promoted.

The dates of appointment of the petitioner as well as respondent Nos.2 to 5 are as under:-

Name	Name of Post	Date of joining
Surender Pal (Petitioner)	Attendant	25/07/05
Ramesh Kumar (respondent No.2)	-do-	03/01/07

Name	Name of Post	Date of joining
Jagbir Singh (respondent No.3)	Peon	01/03/06
Vijay Pal (respondent No.4)	Attendant	03/01/07
Jitender (respondent No.5)	Security Guard	01/08/05

On 27.01.2012, respondent Nos. 2 and 3 were promoted as Godown Assistant-cum-Issue Clerk and Blending Assistant-cum-Warehousing Clerk, respectively (Annexure P-2). Thereafter, respondent Nos. 4 and 5 were promoted as Time Office Clerk and Clerk-Accounts vide order dated 03.02.2012 (Annexure P-3).

Mr. Malik states that the petitioner was promoted as Yeastman on 27.02.2012, in the scale of Rs.5200-20,200+G.P. Rs.1650/-, which is less than the grade of Clerk. Now the petitioner is seeking promotion to the post of Clerk from the date when his juniors have been promoted.

In its written statement, the stand of respondent No.1-Mill is that on a request made by the petitioner (Annexure R1/1), he was promoted to the post of Yeastman.

On the other hand, petitioner in his short replication, has reiterated his stand that this request (Annexure R1/1) had been made by him way back in the year 1994. Thereafter, in the year 1996 the services of the petitioner and other staff were terminated due to closure of Distillery and when the Distillery was reopened in the year 2005, the petitioner was offered appointment as Attendant on 20.07.2005 and he joined on 25.07.2005.

The respondents do not dispute the factual position given in para No.4 of the petition that he was appointed as Attendant on 25.07.2005 and private respondents were junior to him being appointed as Peon, Attendant and Security Guard. As per Service Rules for the Employees of the Cooperative Sugar Mills in the State of Haryana, necessary qualification for

recruitment to the posts of Clerk is as under:-

Matric with 5 years experience as Cane Kamdar/Daftri/Center Chowkidar/Peon or similar equal posts.”

Learned counsel for respondent Nos. 2 to 5 does not dispute that as per the above said qualification, the petitioner, who was appointed as Attendant, was duly eligible to be considered for the post of Clerk. The petitioner has been promoted as Yeastman on 27.02.2012. Although, the private respondents were promoted to the posts of Clerks vide orders dated 27.01.2012 and 03.02.2012 (Annexures P-2 and P-3 respectively) i.e. prior to the appointment of petitioner as Yeastman on 27.02.2012, yet the petitioner had a prior right to be considered for the post of Clerk before his juniors, which the respondents has not done in the present case.

In view of the above, this petition is allowed and the respondents are directed to consider the claim of the petitioner for the post of Clerk from the date respondent Nos.2 and 3 were promoted i.e. 27.01.2012 (Annexure P-2) with all consequential benefits. This exercise be completed within three months.

01.03.2016
ajp

(RITU BAHRI)
JUDGE