

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-1969-2016 (O&M)
Date of Decision: October 03, 2016

Pawan Kumar

.....Appellant

Versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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|----|---|---------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |
| 4. | To be referred to the Reporters or not? | Yes/No |
| 5. | Whether the judgment should be reported in the Digest? | Yes/No. |

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Present: Mr.Jagdish Mitter, Advocate and
Mr.Baljinder Singh, Advocate
for the petitioner.

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SURYA KANT, J.

The appellant was working as Superintendent Grade-II in the respondent-Department when he retired on attaining the age of superannuation on 31.05.2015. It appears that one Superintendent Grade-I retired on 30.04.2015 and a resultant vacancy in that cadre became available on 01.05.2015. That post was not filled up till the appellant retired on 31.05.2015.

Much after his retirement, Departmental Promotion Committee (DPC) was convened in November 2015 and the post was filled up on 07.12.2015.

The appellant somehow felt aggrieved and filed writ petition

claiming that since vacancy had become available before his retirement, the

authorities ought to have convened the DPC and promoted him on that post before his retirement. Such a claim has been turned down by learned Single Judge, giving rise to this Letters Patent Appeal.

We have heard learned counsel for the appellant, who relies upon the guidelines dated 29.05.1992 whereunder DPC is expected to hold its meeting for the vacancies anticipated in the next calendar year. On this premise, it is claimed that the respondents ought to have held DPC well in advance and promote the appellant as soon as the post of Superintendent Grade-I fell vacant.

Having heard learned counsel for the appellant, we do not find any merit in the claim. The guidelines relied upon by the appellant cannot be construed as a mandate to hold DPC in advance and to prepare the select panel. No junior to the appellant was promoted while he was in service. There is no rule to compel the authorities that they must fill up the post as soon as it falls vacant. No mandamus could be issued unless the rule so provides. The time was running against the appellant. He had only 30 days with him during which it would be unfair to expect the respondents to convene DPC or make promotion.

No case to interfere with the order under appeal is made out.

Dismissed.

(SURYA KANT)
JUDGE

October 03, 2016
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(SUDIP AHLUWALIA)
JUDGE