

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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**CM-1449-CWP-2015 in/and
CWP No.5389 of 1998
Date of decision: 28.08.2017**

Balwan Singh

....Petitioner

Versus

Haryana Urban Development Authority & another

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.S.K.Kanwal, Advocate, for the applicant/petitioner.

Mr.Hitesh Pandit, AAG, Haryana, for the respondents.

G.S. SANDHAWALIA, J. (Oral)

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Application for early hearing of the writ petition is allowed, in view of the averments made in the application, duly supported by an affidavit.

With the consent of counsel for the parties, the main case is taken on Board and is disposed of today itself.

CM stands disposed of.

CWP-5389-1998

The main prayer in the present writ petition is to provide the pay-scale of the higher post of Accounts Officer to the petitioner, during the period of his current duty charge and to regularize his promotion in the light of the amended regulations.

It is the case of the petitioner that he had secured appointment to the post of Accounts Assistant during December, 1979 with the respondent-Authority and he was promoted to the post of Accountant in January, 1987. In December, 1991, he was promoted to the next higher position, which was described as current duty charge, on account of the fact

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that the said higher post was to be manned only by the deputationists from Finance Department. The petitioner has not specified the period of current duty charge, as such, but in the representation dated 03.11.1999 (Annexure P-6), it has been mentioned that it was from 05.12.1992. It is not disputed that the petitioner has already retired in the year 2011.

Counsel for the petitioner, at the outset, submits that on account of the fact that the petitioner has been promoted to the post of Accounts Officer, vide order dated 28.07.2008 and he does not press the prayer for payment of current duty charge period. He, however, submits that as per order dated 28.07.2008, the promotion, though given with retrospective effect from 22.10.1999, is on account of his junior-Shri D.S.Chauhan having been promoted. It is, thus, submitted that the monetary benefits which have been denied, are liable to be paid to the petitioner, in view of the settled principle that he was liable to be promoted from the date his junior was promoted. Order dated 28.07.2008, which is taken on record as Mark-A, reads as under:

“Sh. Balwan Singh, A.O. (CDC) presently working in Estate Office, HUDA, Karnal is hereby promoted to the post of Accounts Officer in the pay scale of Rs.6500-200-10500/- plus usual allowances as are admissible to the employees of Haryana Urban Development Authority.

2. The promotion of Sh. Balwan Singh will be from the retrospective date i.e. 22.10.99, when his junior Sh. D.S. Chauhan, Accountant was promoted to the post of Accounts Officer but no monetary benefits will be admissible to him for the previous period.

3. The above promotion shall be without prejudice to the decision that may be taken in finalizing the seniority list of Accountants in HUDA.

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4. Sh. Balwan Singh, A.O. (CDC), on promotion shall
continue in the office where he is already working.

Panchkula, dated

T.C.Gupta,

28th July, 2008

Chief Administrator, HUDA”

A perusal of the above would go on to show that admittedly, the respondents themselves have granted promotion to the petitioner on account of the fact that his junior was promoted in the year 1999. If that was so, petitioner was liable to be promoted from that date also and therefore, the denial is without any justifiable reasons and the same cannot be sustained. Resultantly, this Court is of the opinion that as per Clause (iii) of the relief clause of the writ petition, the benefit can be, accordingly, modified, to the extent that the petitioner can be held entitled to the financial benefits from the date his junior was promoted and that he was wrongly denied the said benefit almost for a period of 9 years. As noticed, the petitioner has also claimed interest @ 18% per annum, on the issue of the current duty charge. Accordingly, this Court is of the opinion that the petitioner shall also be entitled for interest @ 6% per annum on account of the financial benefits from the date they became due.

Accordingly, the present writ petition is disposed of, with a direction to the respondent-Authority to grant financial benefits to the petitioner for the previous period of promotion, along with interest @ 6% per annum, within 3 months from the date of the receipt of the certified copy of this order.

28.08.2017

Sailesh

Whether speaking/reasoned:

Whether Reportable:

Yes/No

Yes/No

(G.S. SANDHAWALIA)
JUDGE