

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

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CWP-10373-2013(O&M)
Date of decision:08.05.2017

Hanuman Singh Panwar

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Ravinder Malik, Advocate for the petitioner.

Mr.J.S. Bedi, Addl. A.G., Haryana.

P.B. Bajanthri, J. (Oral)

In the present writ petition, petitioner has sought for the following relief:-

(i) for issuance of a writ in nature of Mandamus, or any other suitable writ, order or direction to the respondents to implement the instructions C.S.Hr.No.2/10/97-3GSI dated 09.01.2002 and C.S. Hr. No.2/10/97-2GSI dated 06.02.2002 issued by respondent No. 1 to all the Administrative Secretary to Govt. of Haryana to prepare the anticipated vacancies for promotion quota upto 31st of December of the next year and to hold Departmental Promotion Committees meeting within first quarter of each calender year and to finalize the eligible person for promotion against the vacancies for the post of Additional Director of prosecution Haryana in the department of respondent no.3 in the interest of justice.

(ii)*Further for directing the respondent to promote the petitioner being fully eligible and senior most District attorney, to the post of Additional Director of Prosecution Haryana against the vacancy lying vacant with respondent no.3 from due date and grant all the consequential financial benefits arising out of the promotion alongwith the interest @18% per annum from due date till actual payment, in the interest of justice.”*

2. Petitioner attained age of superannuation and retired from service on 31.05.2013. Petitioner claim for consideration of his name for promotion to the post of Additional Director of Prosecution. It was not considered by the official respondents. Whether the petitioner is entitled for consideration of his name for promotion to the post of Additional Director of the Prosecution or not is the question. On 29.04.2004 State Government created two Additional Director of Prosecution posts and those two posts were filled up while upgrading two Joint Director's post. Thereafter, from time to time the post of Additional Director of Prosecution was filled up. Perusal of Annexure R3 it is evident that one Sh. Banwari Lal while holding the post of Additional Director retired on 29.02.2012. The other post of Additional Director is vacant. It is not forthcoming from what date the post is vacant and as to why the post was not filled up. After retirement of Banwari Lal, the official respondents were required to fill up the Additional Director post. Instead of considering the name of the District Attorneys the posts are kept vacant in the guise of not amending the rules of recruitment appropriately. Similar issue was not taken note of as and when posts were created and Joint Director's post was upgraded so also further appointing Banwari Lal and others. As is evident from the

records, it is to be noted that the post of Additional Director was vacant on 13.01.2012. The other post was also vacant. Therefore, names which are reflected in Annexure R3 from Samai Singh to petitioner-Hanuman Singh should have been considered with reference to their eligibility and date of retirement.

3. Learned counsel for the respondents submitted that rules of recruitment have been amended in the year 2013 on 25.10.2013. Petitioner's claim is prior to 31.05.2013 i.e. prior to amendment of rules of recruitment dated 25.10.2013. Therefore, official respondents are hereby directed to consider the claim of the Samai Singh to petitioner with reference to service particulars read with date of attaining age of superannuation and retired from service. If the petitioner is eligible to hold the post of Additional Director, he be promoted retrospectively and extend all notional benefits from the date of promotion till retirement.

4. Above exercise shall be completed within a period of 3 months from today. Civil writ petition stands disposed of.

08.05.2017

pooja saini

(P.B. BAJANTHRI)
JUDGE

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No