

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

205

CWP-1368-2012 (O&M)
Date of decision: 20.04.2017

Virender Singh

....Petitioner

Versus

State of Haryana and another

.... Respondents

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

Present: Mr.R.N.Sharma, Advocate for the petitioner.

Mr. Hitesh Pandit, AAG, Haryana.

P.B. Bajanthri, J. (Oral)

In the present writ petition, the petitioner has sought for a direction to modify the order dated 21.04.2011 vide Annexure P8 to the extent that petitioner has been promoted to the post of Superintendent cadre as and when he fulfills the requisite qualification of 3 years experience in the cadre of Deputy Superintendent i.e. on 27.04.2008.

2. The petitioner was promoted to the post of Deputy Superintendent on 27.04.2005. The next promotional post is Superintendent. Even though the petitioner and other Deputy Superintendents were not eligible for promotion to the post of Superintendent they were promoted on 29.09.2006 on their own pay scale. Thereafter, petitioner and others were promoted to the post of Superintendent in the pay scale of Rs. 9300-34800 on

21.04.2011. The petitioner aggrieved by the date of promotion order to the post of Superintendent cadre i.e. w.e.f. 21.04.2011 contending that the petitioner was already promoted on 29.09.2006 to the post of Superintendent on his own pay scale for the reasons that he was not fulfilling the requisite experience qualification of 3 years in the cadre of Deputy Superintendent. Since the petitioner fulfills three years of experience in the cadre of Deputy Superintendent as on 26.04.2008, consequently the date of promotion to the post of Superintendent is required to be rectified from 21.04.2011 to that of 26.04.2008.

3. Per contra learned counsel for the respondents submitted that the petitioner while working as a Deputy Superintendent as on 29.09.2006 was not eligible for promotion to the post of Superintendent. In the administrative interest, the petitioner has been posted as a Superintendent on his own pay scale. Consequently, the petitioner and others were promoted to the post of Superintendent on 21.04.2011. It is for the department to assign the date of promotion. Merely the petitioner has completed 3 years of service on 26.04.2008 does not mean that he is entitled for promotion to the post of Superintendent in the pay scale of 9300-34800. Thus, the petitioner has not made out a case.

4. Heard learned counsel for the parties.

5. Short question for consideration in the present petition is whether the petitioner could be promoted to the post of Superintendent w.e.f. 26.04.2008 or not? The method of recruitment to the post of Superintendent grade is from Deputy Superintendent grade with 3 years of

experience. The petitioner is stated to have been promoted to the post of Deputy Superintendent on 27.04.2005. He would be completing 3 years of service as Deputy Superintendent on 26.04.2008. However, it is to be noted that on 29.09.2006 itself Superintendent post was available. Consequently, the petitioner was promoted to the post of Superintendent on his own pay scale (Deputy Superintendent). For want of experience qualification of 3 years in the Deputy Superintendent between 29.09.2006 to 21.04.2011, the petitioner has not been displaced from the post of Superintendent. In other words, the petitioner continued to hold the post of Superintendent between 29.09.2006 to 21.04.2011. Therefore, the date of promotion to the post of Superintendent is required to be rectified from 21.04.2011 to 26.04.2008, the date on which the petitioner has completed 3 years of service in the cadre of Deputy Superintendent for the purpose of promotion to the post of Superintendent. Accordingly, the competent authority is hereby directed to rectify the date of promotion to the post of Superintendent from 21.04.2011 to 26.04.2008 and further extend the consequential benefits including the monetary benefits from 26.04.2008 in the cadre of Superintendent.

6. Above exercise shall be completed by the concerned respondent within a period of 3 months from today.

7. CWP stands allowed.

(P.B.BAJANTHRI)
JUDGE

20.04.2017
pooja saini

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No