

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13136 of 2015.

Date of Decision:-28.02.2017.

Birender Singh

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Kuldeep Sheoran, Advocate for the petitioner.

Mr. Sushil Gautam, DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant petition, the petitioner has questioned the order dated 30.6.2015 (Annexure P-7) by which he has been reverted from the post of Inspector to that of Booking Clerk. What has been stated in the said order is that petitioner was promoted inadvertently due to misinterpretation of Service Rules, 1982. Further petitioner's case is not identical to that of **Ramji Lal Vs. State of Haryana (CWP No.1642 of 1989)** decided on 13.5.2010 and the author of Annexure P-7 proceeded to revert the petitioner as if he is going to impose the penalty under the disciplinary rules.

2.) Learned counsel for the petitioner submitted that he had submitted a detailed reply. The entire reply has not been taken note of by the second respondent while passing the order dated 30.6.2015 (Annexure

P-7).

3.) On the other hand, learned State counsel is not in a position to assist in the matter as he does not have the records relating to combined seniority list of Booking Clerk and Conductor which are the source cadre for the post of Inspector. He further submitted that based on the available records, matter can be disposed of.

4.) Heard learned counsel for the parties.

5.) In the order dated 30.6.2015 vide Annexure P-7 merely it is stated that inadvertently due to misinterpretation of Service Rules, 1982 the petitioner was promoted to the post of Inspector from Booking Clerk. In what way the authorities have misinterpreted Service Rules, 1982 in granting promotion to the petitioner to the post of Inspector is not stated. Further it was merely stated that Ramji Lal's case (supra) is not applicable to the petitioner's case. No comparative service particulars have been stated so as to contend that Ramji Lal's case is not applicable to the petitioner's case. That apart, the Director General, State Transport, Haryana proceeded to pass the order dated 30.6.2015 as if he is deciding the matter under the disciplinary proceedings. In view of these facts and circumstances, it is evident that the order dated 30.6.2015 has been passed without application of mind. Hence, order dated 30.6.2015 (Annexure P-7) is set aside and the matter is remanded to the second respondent-Director General, State Transport, Haryana to decide the petitioner's reply to show cause notice afresh while furnishing the details of service particulars of the petitioner as well as with reference to source of recruitment to the post of Inspector i.e. combined seniority list of Booking Clerk and Conductor. Such decision

today and communicate the same to the petitioner.

6.) Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

February 28, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.