

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

CWP No. 15466 of 2017
Date of decision: 19.07.2017

Om Pal

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

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

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks a writ in the nature of certiorari for quashing the promotion of respondent no. 4-Akhtar Hussain as Kanungo and further to consider his claim for promotion from the date the said respondent has been promoted.

In view of the order which is proposed to be passed, this Court does not feel it necessary to issue notice to respondent no. 4 at this stage. However, State has been put to notice and copies of the writ petition have been supplied to Ms. Shruti Jain Goyal, AAG, Haryana on account of the fact that the demand notice of the petitioner dated 30.04.2017 (Annexure P-3) is pending consideration before respondent no. 3-the Collector.

It is the case of the petitioner that he was appointed as Patwari by way of direct recruitment on 08.07.1997 whereas respondent no. 4 had been appointed on 27.08.1996. Initially, the said respondent has been shown senior to him in the seniority list of the Patwari's issued on 31.03.2006 (Annexure P-1) at Sr. No. 36 whereas, the petitioner figured at

Sr. No. 90. Both of them had passed the Kanungo exam on 25.05.2012 and the said respondent was promoted on 09.10.2012 (Annexure P-2) on temporary basis. The promotion of petitioner was held up as his Annual Confidential Report was not complete for promotion as per the contents of the said order. It is the case of the petitioner that one Mohammad Saddiq filed representation that the private respondent had joined at district Gurugram on 16.12.1999 by losing his seniority and it is the case of the petitioner that the Collector had, after hearing the said respondent, taken a decision in the month of August, 2015 that he was entitled for seniority w.e.f. 16.12.1999 instead of 27.08.1996.

On coming to know that the said respondent's seniority was of the year 1999, the petitioner had filed a representation on 30.01.2017 and issued reminder on 10.04.2017 that he be promoted as Kanungo from the date the said respondent had been promoted and that his claim for promotion had not been considered. The said representations have been followed up with the demand notice dated 30.04.2017 (Annexure P-3), which now the petitioner seeks consideration of.

Without commenting on the merits of the case and if the abovesaid averments are correct, this Court is of the opinion that prima facie the petitioner would be entitled for consideration, as claimed, over and above the private respondent. However, since the matter is still pending consideration, the present writ petition is disposed of with direction to respondent no. 3 to take a decision on the demand notice dated 30.04.2017 (Annexure P-3) within a period of 2 months from the date of receipt of certified copy of the order. It is made clear that before any order is passed which is likely to be adverse to the private respondent, the said respondent

shall be issued necessary show cause notice and heard while deciding the representation of the petitioner. Needless to say if the benefit is to be declined, a reasoned order be passed and the same be conveyed to the petitioner

19.07.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No