

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

CWP No.20352 of 2015 (O&M)

Date of Decision:06.12.2017

Gagandeep Arora

... Petitioner

Vs.

Union of India and others

... Respondents

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

Present : Mr. Shalender Mohan, Advocate for the petitioner.

Mr. Akshay Jain, Advocate for respondents No.2 to 5.

P.B. BAJANTHRI J. (Oral)

In the instant writ petition, petitioner has challenged orders dated 21.04.2014 and 30.01.2015 (Annexures P-15 and P-16 respectively).

Petitioner joined service with the respondent-corporation as Apprentice Development Officer on 17.05.1999. He earned promotion to the cadre of Development Officer on 17.02.2001. He was further promoted to the post of Assistant Branch Manager (Sales) on 26.03.2013. Pursuant to the order of promotion, his name has been reflected in the seniority list of Assistant Branch Manager (Sales) at serial No.94. When things stood thus, respondents resorted to alter the service condition of the petitioner to the extent of confirming him in the cadre of Assistant Administrative Officer on 21.4.2014. Petitioner submitted his explanation on 29.4.2014 stating that his line of promotion is in the cadre of Apprentice Development Officer to Development Officer and to Assistant Branch Manager (Sales) and not to Assistant Administrative Officer. Pursuant to the petitioner's explanation, respondent-corporation reiterated their stand. Faced with these factual

aspects, petitioner obtained information under RTI, Act from respondent-corporation and their stand on the issue is as 1.12.2009 that there is no provision of promotion from the Development officer to the post of Assistant Administrative Officer (Administration). Hence, the present petition in questioning the order of confirmation and rejection of the petitioner's explanation.

Learned counsel for the petitioner submitted that post of Assistant Branch Manager (Sales) is governed by the rules called Life Insurance Corporation of India Promotion of Development Officers to the cadre of ABM (S) (Amendment) Rules, 2009. In terms of the aforesaid Rules, petitioner was promoted to the post of Assistant Branch Manager (Sales) on 26.03.2013. Consequently, seniority has been assigned to him in the cadre of Assistant Branch Manager (Sales). In this backdrop, confirming the petitioner in the cadre of Assistant Administrative Officer on 21.4.2014 and rejection of the petitioner explanation while reiterating the confirmation in the cadre of Assistant Administrative Officer is contrary to Rules 2009 and once the petitioner has been promoted to the post of Assistant Branch Manager (Sales) and his name has been reflected in the concerned seniority of cadre/post, question of confirming him in different cadre/post is impermissible so also no notice is given to the petitioner before confirming the petitioner in the cadre of Assistant Administrative Officer. It was further submitted that for the purpose of promotion to the post of Assistant Administrative Officer, a separate statutory rule is governed called "Life Insurance Corporation of India Class-III & Class IV Employees Promotion Rules, 1987. It was also pointed out from Annexure P-3 (Probation on Promotion) that during the period of probation an employee retains his lien

on his lower post and the period shall count as permanent service for all purposes so as to point out that even though the petitioner is on probation still he had lien over the post of Development Officer and in that line itself he is entitled for promotion and other service benefits. He relied on CHAPTER-II (Annexure P-8) in particularly para-7 relating to direct recruitment and promotions wherein it is specifically stated that all recruitment and promotions shall be made against the vacancies in sanctioned posts. That apart, it was submitted that when petitioner has obtained information under RTI, respondents have furnished information that for the purpose of promotion to the cadre of Assistant Branch Manager (Sales) feeder cadre is Development Officer. Therefore, shifting or confirming the petitioner from the cadre of Assistant Branch Manager (Sales) to that of Assistant Administrative Officer is impermissible. Hence, impugned decision is liable to be set aside.

Per contra, learned counsel for the respondent while resisting the claim of the petitioner submitted that under the Life Insurance Corporation of India (Staff) Regulation, 1960, Regulation No.5 relates to classification of Class of employees which has been classified as Class-I, II, III and IV since the post of Assistant Administrative Officer and Assistant Branch Manager would fall under the Class-I. Therefore, it is interchangeable and the Assistant Branch Manager (Sales) is not a cadre post, cadre post is only Assistant Administrative Officer. Thus, rightly the official respondents have confirmed petitioner in the cadre of Assistant Administrative Officer. It was further submitted that in the entire LIC one and only cadre is Assistant Administrative Officer. Rest of the posts are called only posts and do not constitute cadre. He has also relied on the

schedule-I while pointing out equivalent cadres and other posts in class-I to demonstrate that post of Branch Manager/Administrative officer are equivalent cadres. Therefore, there is no infirmity in the decision confirming the petitioner in the cadre of Assistant Administrative Officer, even though, he was promoted as Assistant Branch Manager (Sales).

Heard learned counsel for the parties.

Crux of the matter in the present petition is whether Development Officer, who has been promoted in terms of 2009 Rules, could be confirmed in the cadre/post of Assistant Administrative Officer or not?

Perusal of the 2012-2013 Rules for promotion of Development Officers to the cadre of Assistant Branch Manager (Sales) title of the Rules is crystal clear that it is only for the post of Assistant Branch Manager (Sales) from the cadre of Development Officer. Such an amendment in the Rules have been issued in the year 2009 (Annexure P-1). Relying on Regulation 5 of Life Insurance Corporation of India (Staff) Regulation 1960 in particularly regulation No.5, it is only for the purpose of classification of posts. In other words equating certain posts for the purpose of future service condition like Assistant Administrative Officer and Branch Manager would enter into the cadre of Assistant Divisional Manager. Therefore, it is only for the purpose of classification as well as promotion to the cadre of Assistant Divisional Manager. Further provisions of Regulation 1960 provides for pay scale of various posts. Even though pay scale of the post of Assistant Administrative Officer and Assistant Branch Manager (Sales) are equivalent still they are two separate wings since Development Officer is entitled to promotion to the cadre of Assistant Administrative Officer then Administrative Officer then Assistant Divisional Manager. Whereas

Development Officer in the sales wing, he will enter into the cadre of Assistant Branch Manager (Sales) then Branch Manager (Sales) then Assistant Divisional Manager. In view of these facts and circumstances and the Life Insurance corporation of India (Staff) Regulation 1960 read with 2009 Rules, promotion of the employees shall be effected only against vacancies sanctioned for the post read with the information furnished by the respondent-corporation under RTI vide Annexure P-7. Further it is evident from 1960 Regulation that the post of Assistant Branch Manager (Sales) and Assistant Administrative Officer are two separate cadres. Even for the purpose of promotion to the cadre of Assistant Divisional Manager, one has to enter Branch Manager (Sales) and on the other wing from Assistant Administrative Officer to Administrative Officer. Thus, it is crystal clear that both the posts are independent. Hence, question of holding that only one cadre is Assistant Administrative Officer and Assistant Branch Manager (Sales) is not a cadre cannot be accepted and these posts are not interchangeable. In view of these factual aspects read with statutory provisions, respondents' action to confirm petitioner in the post or cadre of Assistant Administrative Officer is not supported by any statutory provision. Hence, impugned action of respondent confirming petitioner's service in Assistant Administrative Officer is highly arbitrary, illegal and violative of Article 14 of Constitution.

Accordingly, Annexures P-15 and P-16 are set aside. Petitioner is entitled to continue in the cadre/post of Assistant Branch Manager (Sales) in accordance with 2009 Rules read with seniority assigned to him in the cadre of Assistant Branch Manager (Sales). Respondents are hereby directed to take a decision in respect of confirming petitioner in the post of Assistant

Branch Manager (Sales) within a period of two months from today and extend all service benefits in the post of Assistant Branch Manager (Sales).

Petition stands allowed accordingly.

06.12.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**