

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

CWP No. 18122 of 2017 (O & M)

Date of decision: 28.09.2017

R.K. Singh

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. Birender Singh Rana, Sr. Advocate,
with Mr. Parveen Kaushik, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Sandeep Moudgil, Advocate,
for the applicant-respondents no. 2 and 3.

Mr. Akshay Bhan, Sr. Advocate,
with Mr. Gurinder Singh, Advocate,
for respondent no. 4.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 13988-CWP of 2017

Application for placing on record affidavit on behalf of the
respondent-Corporation is allowed, subject to all just exceptions.

The same is taken on record.

CWP No. 18122 of 2017 (O & M)

The petitioner seeks setting aside of the letter dated 04.08.2017
(Annexure P-4) passed by the State whereby, directions were issued
regarding promotion to the post of Secretary.

On 17.08.2017, the contention of the senior counsel was noted
and operation of the impugned letter (Annexure P-4) had been stayed. The

order reads thus:-

“Inter alia contends that petitioner has been working with the respondent-Corporation since 1992 and was absorbed against the post of System Analyst (Annexure P-1), which was approved on 03.08.1992. He was, thereafter, promoted on 27.03.2008 as Senior Assistant Analyst. On account of the vacancy to the post of Secretary and in view of his eligibility along with one Shri Vaneet Chawla, who is serving as Executive Engineer, the matter was put up before the Executive Committee of the Corporation, for consideration for promotion. But, on account of a complaint made by one Balbir Singh and Prashant Mehta regarding the illegal appointment of the petitioner and on the enquiry report submitted on 11.04.2017, vide communication dated 04.08.2017 (Annexure P-4), the Government has, now, ordered that Shri Vaneet Chawla be promoted as Secretary with immediate effect as he is the only eligible candidate.

Learned Senior Counsel, accordingly, contends that the Government, as such, cannot interfere in the day-to-day functioning of the Corporation and the directions were uncalled for. Reliance is placed upon the observations made in CWP-16296-1995 decided on 01.07.2015.

Notice of motion for 07.09.2017.

Ms. Shruit Jain Goyal, AAG, Haryana accepts notice on behalf of respondent No.1. Copy of the paperbook has been supplied to her.

Mr.Kaushik has filed amended memo of parties, impleading Shri Vaneet Chawla, Executive Engineer as respondent No.4. Same is taken on record. Office to append the same at appropriate place.

Respondents No.2 to 4 be served by way of dasti

process.

In the meantime, operation of the letter dated 04.08.2017 (Annexure P-4) shall remain stayed.”

Thereafter, applications were filed for vacation of stay by the private respondent. The State has also filed its reply wherein, the plea taken is that the administrative control of the Warehousing Corporation rests with the Agricultural Department and that the conditions of service and other regulations of staff are controlled by the State Government and, thus, justified the issuance of the impugned letter. However, affidavit of the Managing Director of the respondent-Corporation has been filed wherein, it has been averred that the post of the Secretary is important and functioning of the Corporation is being affected and, therefore, the case for promotion by considering all eligible candidates including the petitioner be considered afresh strictly according to seniority-cum-merit as per the Rules of the Corporation i.e. The Haryana State Warehousing Corporation (Officers & Staff) Regulations, 1994.

It has been deposed that the impugned letter will not be taken into account by the Executive Committee for considering promotion to the post of Secretary. The relevant part of the affidavit dated 25.09.2017 which would satisfy counsel for the petitioner reads thus:-

“3. That as per regulation 5 of The Haryana State Warehousing Corporation (Officers and Staff) Regulations-1994 the competent Authority to make appointments and promotions to class 1 is the Executive Committee.

4. That in view of the observation of the Hon'ble Court dated 21-09-2017, the deponent hereby submits this affidavit to the effect that the Executive Committee while considering the promotion to the post

of Secretary which is lying vacant for quite some time will not take into account the Govt. letter dated 04-08-2017.

5. *Therefore in compliance of the observation of the Hon'ble Court the deponent hereby submits that the Executive Committee will consider the case of eligible candidates including the petitioner for promotion to the post of Secretary afresh strictly according to seniority cum merit as per the rules & regulations of the Corporation "The Haryana State Warehousing Corporation (Officers & Staff) Regulations-1994".*

Once that is the stand of the Corporation and the petitioner, at best, has a case for due consideration only and there is no vested right as such for promotion, the present writ petition is disposed of in terms of the undertaking given in the above said affidavit. The Corporation shall accordingly also consider the case of the petitioner unfettered by the impugned letter whereby, his right of consideration was being taken away. Needless to say it is always open to the aggrieved party to challenge any further orders passed.

Writ petition stands disposed of accordingly.

28.09.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No