

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

CWP No. 26730 of 2013
Date of decision: 10.07.2017

Randhir Singh

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. Raman B. Garg, Advocate,
and Ms. Gitanjali, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 07.05.2013 (Annexure P-1) whereby it was held that the petitioner is not held entitled to get deemed date of promotion as Draftsman w.e.f. 24.10.2000 and his pay could not be stepped up at par with his junior Sh. Chetan Dass. Resultantly, in view of the said order, the pay which was stepped up on 18.01.2012 (Annexure P-4) was withdrawn and subsequently vide letter dated 15.05.2013 (Annexure P-5), the pay was re-fixed.

It is not disputed that the petitioner retired on 31.05.2013 as draftsman and as per the respondents themselves, a recovery of ₹1,08,356/- was also effected on account of the said action of the State.

The State has justified the said action on the ground that the petitioner had only passed his departmental examination on 06.11.2000, which was the requisite pre-condition before his case could be treated for promotion to the post of a draftsman as per the Rules. It is accordingly submitted that the benefit which was granted on 18.01.2012 for stepping up

was on a wrong premise as the petitioner could not have been granted the benefit from the deemed date on the principle of equality as at that point of time as he had not passed the departmental examination and was not liable as per the Rules.

The stand of the State, as such, does not suffer from any vice but the only issue remains is that whether the State can be permitted to withhold the result inordinately and adversely effect the petitioner to his detriment.

The said aspect was accordingly noted vide interim order dated 15.05.2017 and the argument as such of the counsel for the petitioner that the result should be considered from the date of the examination given was rejected. However, it was directed that an affidavit be filed that what would be the sufficient or reasonable time to enable the State to evaluate the papers and declare the result. The relevant part of the order reads thus:-

“Here there is no intrinsic pressure on the examining body to declare the result but that does not mean that an examining body can delay result indefinitely. Of course, it may not also mean that the petitioner would be deemed to have cleared the exam in March, but the matter needs to be examined.

In the circumstance, Assistant Advocate General is directed to inform the Court that how much time would be sufficient or reasonable to enable the State to evaluate the papers and declare the result.

Adjourned 10.7.2017.”

In pursuance of the above said direction, the State has graciously filed the affidavit that a period of 2 months approximately would be sufficient and reasonable to declare the result. As noticable, the exam was held in March 2000. Even if the benefit of 3 months is to be given, in

the opinion of this Court which is sufficient time as such for the purposes of evaluation and declaration of result, the petitioner would have duly qualified and have been entitled for the benefit of having passed the said examination by June, 2000 that was much prior in time from the date his junior was promoted on 24.10.2000 who joined on 31.10.2000, from which date the petitioner was also granted the deemed promotion. In such circumstances, the action of the State in recalling the deemed promotion on 07.05.2013 is not justified. Even otherwise, it is to be noticed that the principles of natural justice were blatantly violated and at the fag end of the service of the petitioner and at the time of retirement, the order was passed to his detriment leading to the recovery also for a sum of ₹1,08,356/-.

Resultantly, this Court is of the opinion that the action of the State is not justified in the facts and circumstances. The petitioner cannot be faulted on account of the delay in the declaration of result by the State. Accordingly, the present writ petition is allowed. Order dated 07.05.2013 (Annexure P-1) is set aside and also the order dated 13.05.2013 (Annexure P-5) giving effect to the said order. The State shall refund the amount of ₹1,08,356 to the petitioner within a period of one month from the date of receipt of certified copy of the order. Needless to say that the step up earlier granted is restored and the petitioner is held entitled to all consequential benefits. His retiral benefits will accordingly be recalculated and the benefits he is entitled to, the State shall also pay the same within the abovesaid period.

10.07.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

