

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

CWP No.26498 of 2014 (O&M)

Date of Decision: May 23, 2017

Gurwinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R.K. Arora, Advocate
for the petitioner.

Mr. L.S. Virk, Addl. AG Punjab.

JAISHREE THAKUR, J. (Oral)

The petitioner herein seeks promotion on the post of Multipurpose Health Supervisor, from the date persons junior to him have been given promotion along with all consequential benefits.

2. In brief the facts are, that after having his name recommended by the Subordinate Services Selection Board, Punjab, the petitioner was appointed on the post of Sanitary Supervisor (Health Core) on regular basis in the pay scale of Rs.950-1800. He was issued an appointment letter dated 15.05.1996. As the post of Sanitary Supervisor was not available, the petitioner was adjusted against the post of Multipurpose Health Worker

(Male) at Primary Health Center, Chabhal against vacant post by order dated 27.05.1997. The petitioner continued to work as Multipurpose Health Worker, despite the fact that his initial appointment was on the post of Sanitary Supervisor, which carries the same pay scale and educational qualifications, as that of a Sanitary Supervisor. In the year 1998, he was also selected and offered appointment to the post of Multipurpose Health Worker, but did not join, as he was already working and discharging the duties of Multipurpose Health Worker in the same pay scale. He was allotted a GPF number by order dated 09.08.1999 and subsequently was also confirmed on the said post by order dated 05.12.2002. The petitioner continued to perform his duties in the cadre of Multipurpose Health Worker and was granted benefits of ACP scheme as well. A seniority list was prepared, in which, the name of the petitioner was reflected at Serial No.7, which was circulated on 05.06.2012. Persons junior to the petitioner were promoted on the post of Multipurpose Health Supervisor, ignoring the petitioner, who approached the Department concerned for the said promotion. Aggrieved against non-consideration of his case for promotion, the instant writ petition has been filed.

3. Mr. R.K. Arora, learned counsel appearing on behalf of the petitioner urges that even though the petitioner came to be appointed as Sanitary Supervisor, he has been discharging his duties as Multipurpose Health Worker ever since 13.06.1997 and after having been given a seniority amongst other Multipurpose Health Workers, along with GPF number and benefits of ACP scheme and increments, it would be deemed that he was regularly appointed in the said cadre and therefore, could not be

denied promotion to the post of Multipurpose Health Supervisor.

4. Per contra, Mr. L.S. Virk, learned Addl. AG Punjab contends that the petitioner does not have regular appointment order to the post of Multipurpose Health Worker. In fact, he came to be appointed as Sanitary Supervisor in the year 1996, which is a totally separate cadre. He was offered appointment to the post of Multipurpose Health Worker, which he denied to accept and therefore, once not being in the cadre of Multipurpose Health Worker, he would not be entitled to any promotion to the post of Multipurpose Health Supervisor.

5. I have heard learned counsel for the parties and have also gone through the pleadings of the case.

6. There is no dispute about the fact that the petitioner was given regular appointment on the post of Sanitary Supervisor, after facing a selection process. His name was recommended by the Subordinate Services Selection Board, Punjab, but on account of the fact that no post of Sanitary Supervisor was available, he was adjusted on the post of Multipurpose Health Worker and has been continuously discharging his duties efficiently against the said post, for the last so many years. During his course of employment as Multipurpose Health Worker, he has been given a GPF account number, benefits of ACT scheme on completion of 4, 9 and 14 years of service and his name has been reflected in the seniority list of Multipurpose Health Workers from time to time. In the seniority list, which was issued on 05.06.2012, the name of the petitioner stands at Serial No.7.

7. The argument, as raised, that the petitioner was appointed as a

Sanitary Supervisor and thus, has not borne to the cadre of Multipurpose Health Worker, would not be sustainable on the ground that it is by the action of the respondents-State, that the petitioner was adjusted against the post of Multipurpose Health Worker. In the instant case, it is not as if the appointment is through back door or the selection is illegal. No fault can be attributed to the petitioner. After having rendered almost 21 years' service as a Multipurpose Health Worker, it does not seem reasonable for the State to raise this argument that the petitioner was not regularly appointed on the post of Multipurpose Health Worker, in the facts of the present case. After having allotted him a GPF number along with benefits of increments, ACP and marking his Annual Confidential Reports as a Multipurpose Health Worker, the respondents herein are estopped by their own act and conduct from not acknowledging him to be borne to the cadre of Multipurpose Health Worker. What is also pertinent to note that by Annexure P-6, Civil Surgeon Amritsar, confirmed the services of the petitioner with immediate effect, while noting that he was a Multipurpose Health Worker (Male) at Primary Health Center/Civil Hospital, Chabhal. Once the petitioner stands confirmed, as a Multipurpose Health Worker, respondents would be estopped from raising any plea that his initial appointment was that of a Sanitary Supervisor.

8. Therefore, by their own act and conduct, respondents have confirmed petitioner as a Multipurpose Health Worker and he would therefore be entitled to be promoted as per the seniority list. In case, the juniors to the petitioner have been promoted, the petitioner would be entitled to promotion from the date his juniors were promoted on the post of

Multipurpose Health Supervisor, with all consequential benefits. Let the needful be done within a period of two months from receipt of certified copy of this order.

9. The writ stands allowed accordingly.

May 23, 2017
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No