

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5743 of 2015

Date of Decision:-09.03.2017.

Atma Ram Bhadu

.....Petitioner

Versus

State of Haryana and another

.....Respondents

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

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

Mr. Ravi Partap, AAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has sought for quashing of condition imposed in Annexure P-2 dated 31.1.2013 by which he has been asked to hold the current duty charge of the post of District Revenue Officer in his own pay scale without any extra remuneration and any benefit of working on the post of District Revenue Officer. The method of recruitment to the post of District Revenue Officer is by promotion from the cadre of Tehsildar and it is by seniority-cum-merit basis. The petitioner's name was considered by the Promotional Committee headed by Additional Chief Secretary to Government of Haryana on 17.1.2012. Thereafter, on 31.1.2013 instead of promoting the petitioner, he was directed to hold current duty charge of District Revenue Officer. Thus, the

petitioner is aggrieved by the order to hold the current duty charge of the post of District Revenue Officer instead of promoting him to the post.

2.) Learned counsel for the petitioner submitted that for the purpose of promotion to the post of District Revenue Officer, petitioner's name was considered on 17.1.2012 and not for placing him on current duty charge of the District Revenue Officer. Therefore, the petitioner's name should have been considered for promotion to the post of District Revenue Officer. Thus, there is arbitrariness in directing the petitioner to hold current duty charge of the post of District Revenue Officer instead of promotion.

3.) Per contra, learned counsel for the State submitted that petitioner was not promoted for the reasons that there were certain allegations against the petitioner. Therefore, he has been assigned only current duty charge of District Revenue Officer. It was further submitted that no doubt the petitioner's name was considered for promotion to the post of District Revenue Officer in the meeting presided over by Additional Chief Secretary to Government of Haryana on 17.1.2012, having regard to the fact that the petitioner was facing certain allegations, he was appointed on current duty charge of the post of District Revenue Officer on 31.1.2013. The petitioner has no right to seek promotion as long as his junior is promoted. Therefore, the petitioner has not made out a case.

4.) Heard learned counsel for the parties.

5.) Crux of the matter in the present case is whether the petitioner is entitled for promotion to the post of District Revenue Officer or not. It is undisputed that the petitioner's name was considered for promotion by the

Secretary to Government of Haryana on 17.1.2012 and his name was cleared for promotion. Merely because petitioner was facing allegations as on 31.1.2013 that does not come in the way of his promotion for the reasons that the Supreme Court in the case of **Union of India Vs. K.V. Jankiraman 1991 SCC (4) 109** held that date of consideration of promotion relates back to date of Departmental Promotion Committee meeting held for the purpose of promotion. In the present case, Departmental Promotion Committee has cleared the petitioner's name for promotion on 17.1.2012 and insofar as allegations are concerned chargesheet was issued only on 17.1.2013 i.e. after one year from the date of clearance of the petitioner's name for promotion to the post of District Revenue Officer and further even if the petitioner is punished in a departmental inquiry on 24.7.2014, the same would not come in the way of petitioner's promotion for the reasons that the petitioner's name for promotion to the post of District Revenue Officer would relate back to 17.1.2012 the date on which his name was cleared. As on 17.1.2012, the petitioner was not facing disciplinary proceedings, therefore, he is entitled for promotion. In view of these facts and circumstances, the petition is allowed. The respondents-promoting authority is directed to promote the petitioner if he is otherwise fully eligible as on 17.1.2012.

6.) At this stage, learned counsel for the petitioner submitted that petitioner has attained the age of superannuation and retired from service on 30.4.2015. In view of latter development, the concerned respondent, if he is of the view that the petitioner is entitled for promotion to the post of District Revenue Officer on 17.1.2012, in that event petitioner be promoted w.e.f.

30.4.2015. Further re-fixation of pay and pension are required to be undertaken. The above exercise shall be completed by the concerned respondent within a period of three months.

(P.B. BAJANTHRI)
JUDGE

March 09, 2017.

sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.