

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

**CWP No.8480 of 2014
Date of Decision:19.05.2017**

Girwar Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

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

Present : Mr. S.N. Yadav, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

The petitioner has questioned the validity of order dated 4.4.2014 (Annexure P-7) passed by second respondent by which promotion granted to petitioner to the post of Marketing Assistant has been withdrawn.

Petitioner was promoted to the post of Marketing Assistant on 24.7.2013 amongst others. He has attained the age of superannuation and retired from service on 30.11.2013 while holding the post of Marketing Assistant. The respondents in the month of April 2014 noticed that the petitioner was not eligible for promotion to the post of Marketing Assistant having regard to the seniority in the source cadre. Therefore, they proceeded to withdraw the order of promotion dated 24.7.2013 on 4.4.2014. Hence, the present petition.

Learned counsel for the petitioner submitted that the petitioner has attained the age of superannuation and retired from service on 30.11.2013. Whereas the order of reversion has been passed on 4.4.2014. As and when an employee retired from service, employer-employee relationship ceases. Therefore, question of withdrawing the order of promotion to the post of Marketing Assistant is impermissible. It was further submitted that order dated 4.4.2014 has been issued without issuing

notice to the petitioner.

Per contra, learned counsel for the respondents resisted the claim of the petitioner contending that undisputedly the petitioner has been promoted to the post of Marketing Assistant on 24.7.2013 ignoring the seniority of other persons who are seniors to the petitioner. Therefore, petitioner has not made out a case so as to interfere with the order dated 4.4.2014.

Heard learned counsel for the parties.

Crux of the matter in the present petition is whether the respondents can withdraw the order of promotion after retirement of an employee and further without issuing notice to such an employee. Even if the petitioner has been inadvertently promoted to the post of Marketing Assistant, he has the right to continue in the post of Marketing Assistant and he has been continued upto the date of his retirement on 30.11.2013. Therefore, impugned action of the respondents dated 4.4.2014 which is subsequent to the petitioner's retirement is impermissible since master and servant relationship ceases as and when an employee retired from service. Moreover, withdrawal of the promotion order is without notice. Hence, order dated 4.4.2014 (Annexure P-7) is hereby set aside.

Accordingly, petition stands allowed.

19.05.2017

rajeev

Whether speaking/reasoned

Whether reportable

(P.B. Bajanthri)

Judge

Yes/No

Yes/No