

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.9644 of 2017.

Date of Decision: May 05, 2017

Union of India and another

.....Petitioners

versus

Kailash Devi and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDIP AHLUWALIA.

Present: Mr.P.C.Goyal, Advocate, for the petitioners.

-.-

Surya Kant, J. (Oral)

Union of India and Commissioner, Central Excise Commissionerate, Chandigarh are aggrieved by the order dated 21.11.2016 passed by the Central Administrative Tribunal, Chandigarh Bench, whereby Original Application filed by 1st respondent was allowed and she has been held entitled to promotion and seniority as Inspector from the year 1990, namely, from the date the same was granted to her juniors Tarsem Kumar and Hari Ram.

[2] The facts are broadly admitted. The 1st respondent started her service career as a Lower Division Clerk in Beas Construction Board on 27.08.1976. She was declared surplus and in terms of the Government Policy, she came to be appointed in the petitioner-department as Lower Division Clerk w.e.f. 14.03.1985. She was promoted as Upper Division Clerk and then as Tax Assistant in the year 1994. Her juniors, namely, Tarsem Kumar and Hari Ram were promoted as Upper Division Clerks in the year 1994 and as Tax Assistants in the year 1999.

[3] A controversy arose as to whether or not Tax Assistants were required to qualify the departmental examination for their promotion as

Inspectors in accordance with the provisions of Central Excise and Land Customs Department Group C Posts Recruitment Rules, 1979. Tarsem Kumar and Hari Ram, namely, juniors to the 1st respondent approached the Tribunal. Some other employees also filed their Original Applications. All those cases were decided by the Tribunal on 05.11.1999 laying down that the condition of passing departmental examination was alien to the Scheme of the Rules. Consequently, successful candidates were promoted as Inspectors from different dates. Tarsem Kumar and Hari Ram were also promoted from the year 1990.

[4] The 1st respondent alongwith her colleagues approached the Tribunal vide OA No.317/PB/2012 which was disposed of by the Tribunal with a direction to consider her claim for re-adjustment/promotion as Tax Assistant and then as Inspector. In deference to those directions, the Competent Authority passed the impugned order dated 18.02.2015 thereby assigning seniority to the 1st respondent as Inspector w.e.f. 05.08.1993 on the premise that she qualified the departmental examination on that date. She challenged the said order before the Tribunal and vide the impugned order, her claim has been accepted directing the petitioners to assign her seniority as Inspector from the year 1990, namely, the date when her juniors Tarsem Kumar and Hari Ram were promoted.

[5] We have heard learned counsel for the petitioners at a considerable length and gone through the records.

[6] As the facts would speak for themselves, it is undeniable that Tarsem Kumar and Hari Ram both were juniors to the 1st respondent in the cadre of Tax Assistants. There is no other qualification or ineligibility attached to respondent No.1 which could deny her promotion as Inspector

alongwith her juniors. The only plea taken against the 1st respondent is that she qualified the departmental examination on 05.08.1993. The condition of passing the departmental examination for promotion as Inspector has already been annulled by the Tribunal and those orders have attained finality. In this view of the matter, we find no error in the order passed by the Tribunal directing to grant seniority and promotion to respondent No.1 from the date when her juniors were promoted and assigned seniority.

Dismissed.

[SURYA KANT]
JUDGE

May 05, 2017
mohinder

[SUDIP AHLUWALIA]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No