

In the High Court of Punjab and Haryana at Chandigarh

RSA No. 905 of 1994 (O&M)
Date of Decision: February 28, 2018

Subash Chander

... Appellant

Versus

State of Punjab and others

... Respondents

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

Present: Mr. Surinder Gandhi, Advocate,
for the appellant.

Mr. RBS Chahal, Addl. A.G., Punjab.

P.B. Bajanthri, J. (Oral)

CM-3327-C-2018

CM for placing on record affidavit of Sh. Daljeet Singh, PPS, Assistant Inspector General, Punjab, Patiala, on behalf of respondents no. 1 to 4 along with Annexures R/1 to R/6 is allowed subject to all just exceptions for the reasons stated in the application. Affidavit dated 16.02.2018 along with Annexures R/1 to R/6 is taken on record.

RSA No. 905 of 1994

1. In the instant appeal, appellant has challenged the trial, as well as, appellate Courts' judgments dated 31.10.1990 and 02.12.1993.

2. Appellant's grievance is that his name has been overlooked for the post of Assistant Sub Inspector on 30.06.1987. Apparently, his name has been overlooked on the score that while working as Head Constable he was reverted to the post of Constable on 15.10.1979.

Consequently, Sh. Resham Singh became senior to the appellant. Sh. Resham Singh was promoted on 30.06.1987. Appellant feeling aggrieved by the order of reversion, preferred appeal/representation before the higher authority. On 13.09.1988 order of reversion was set aside in effect appellant's service condition restored. In other words, appellant became senior to Sh. Resham Singh.

3. In view of these facts and circumstances whether appellant is entitled to promotion to the post of Assistant Sub Inspector on par with Sh. Resham Singh w.e.f. 30.06.1987 or not?

4. Official respondents have considered appellant's name for promotion to the post of Assistant Sub Inspector on 05.08.1988 while taking into the annual confidential reports for the years 1985, 1986 and 1987. Undisputed facts are that as on 30.06.1987, ACR for the period from 01.04.1985 to 30.09.1985 was communicated to the appellant on 22.07.1986 (Annexure R-1). Thus, as on 30.06.1987, ACRs for the period from 01.04.1986 to 22.04.1986, 07.07.1986 to 16.01.1987, 23.04.1986 to 06.07.1986, 17.01.1987 to 02.03.1987 and 01.04.1987 to 07.07.1987 were not communicated to the appellant and the fact that appellant's name is required to be considered for promotion to the post of Assistant Sub Inspector is as on 30.06.1987 the date on which Sh. Resham Singh was promoted. Thus, official respondents have committed error on 05.08.1988 while reconsidering the appellant's name for promotion to the post of Assistant Sub Inspector while taking into the ACRs which were not communicated as on 30.06.1987.

5. In view of these facts and circumstances, respondents are

hereby directed to re-consider the appellant's name for promotion to the post of Assistant Sub Inspector w.e.f. 30.06.1987, as ACR for the period from 01.04.1985 to 30.09.1985 was alone communicated. Rest of the ACRs cannot be considered, since as on 30.06.1987 they were not existing in the eye of law. In other words, un-communicated ACRs as on 30.06.1987 cannot be looked into. If the appellant is otherwise eligible for promotion to the post of Assistant Sub Inspector, he shall be promoted on par with Sh. Resham Singh and appellant is entitled to all service benefits including monetary benefits. The above exercise shall be completed within a period of six months from today.

6. Accordingly, appeal stands disposed of.

February 28, 2018
vkd

[P.B. Bajanthri]
Judge

Whether reasoned / speaking : Yes

Whether reportable : No