

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

CWP No.12622 of 2011.

Date of Decision: 18.04.2018.

Anoop Singh

... Petitioner

Versus

Punjab State Power Corporation Limited and another

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. J.S. Jaidka, Advocate,
for the petitioner.

Ms. Geeta Sharma, Advocate,
for the respondents.

JITENDRA CHAUHAN.J.

This civil writ petition has been filed for issuance of a writ in the nature of mandamus for directing the respondents to promote the petitioner from the date, his immediate junior were promoted. The petitioner also seeks quashing of office memo No. 5922-IA-6730 dated 18.04.2011 (Annexure P-4) passed by the respondents vide which his representation was declined.

It is contended that the petitioner, a retiree was denied promotion despite being senior and eligible. Four junior Revenue Accountants, namely, Darshan Singh, Devinder Singh Puria, Ashok Kumar and Yash Pal were wrongly promoted as Revenue Superintendent. The twin reasons for withholding promotion stated were: '(i) there is a bribery/criminal case pending against the petitioner;

(ii) the points accumulated by the Annual Confidential Reports for the relevant period do not add up to warrant the petitioner's promotion.' It has been further contended that vide judgment dated 03.05.2013, the petitioner stood acquitted of the criminal charges. Now, there is nothing adverse against the petitioner.

On the other hand, the stand of the respondents is that the petitioner failed to secure required 13 point bench mark and a criminal case under the Prevention of Corruption Act was also pending against him. He retired from service on 31.01.2012 during the pendency of the criminal case. The petitioner had obtained only 8 marks on the basis of his ACRs pertaining to the period from 01.04.2003 to 31.03.2008, whereas, he was required to obtain 13 marks. The case of the petitioner was considered several times for promotion but was never able to reach the bench mark. In August, 2000, he obtained only 10.60 marks and again in April 2002 for the same reason, his promotion was deferred. In August, 2003 the petitioner could secure 12.55 marks, whereas, in February, 2004 he secured 10.55 marks and again in April 2006 he obtained 12.58 marks. Since the petitioner could not secure the bench mark, his case for promotion was deferred.

Heard.

As per the respondents, the grading of the ACRs is to be done in the following way:-

(i)	Outstanding	5
(ii)	Very Good	4

(iii)	Good	3
(iv)	Average	2
(v)	Below Average	1
(vi)	ACR with integrity doubtful	- 5 (Minus five)

It is reflected in Annexure R-3 that for the year 2003 and 2004 the petitioner was awarded eight marks (four marks for each year) as his ACRS for that period were “Very Good”. However, for the subsequent years 2006, 2007 and 2008 for want of ACRs, no credit could be awarded to him. This Court is of the opinion that for the non-availability of the ACRs for the relevant period, the petitioner cannot be blamed. Had the ACRs been recorded on time by the department, he would have either been promoted to the post of Revenue Superintendent or there would have been justifiable cause to deny him the same. For the inaction of the respondents, the petitioner cannot be put to disadvantageous position. So far as the pendency of criminal case is concerned, the petitioner stands acquitted in that case vide judgment dated 03.05.2013.

In view of above, the present writ petition is allowed. The respondents are directed to notionally promote the petitioner with effect from the date when his juniors have been promoted and grant him all the consequential notional benefits accruing therefrom, within six weeks from the date of receipt of copy of the judgment.

18.04.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No