

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

CWP-10509-2015 (O&M)
Date of decision : 11.01.2018

Manjula

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. C.M. Munjal, Advocate,
for the petitioner(s).

Mr. Suveer Sheokand, Addl.A.G., Punjab.

Ms. Neha Jain, Advocate for respondent No.3.

JITENDRA CHAUHAN, J. (Oral)

By way of filing the instant petition under Articles 226/227 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of certiorari *inter alia*, for quashing order dated 17.04.2015 (Annexure P-7), passed by respondent No.2, thereby, directing respondent No.3 to revert the petitioner from the post of Child Development Project Officer (for short, 'the CDPO') to the post of Senior Assistant; and order of reversion dated 05.05.2015 (Annexure P-10), issued by respondent No.3.

It is the case of the petitioner that she was appointed as Clerk against 'Border Area Project' vide order dated 21.01.1991 and she joined her services as such on 25.01.1991. After finding her services satisfactory, her services were regularized from the date of her joining vide order dated 02.02.1996. Since the petitioner was appointed as Accounts Clerk and the said post being equivalent to the post of Senior Assistant, the petitioner

started working as Senior Assistant under the Punjab State Social Welfare Board (for short, 'the Board'). Ultimately, on 14.01.2011, she was promoted as CDPO vide order Annexure P-3. Thereafter, one Kusum Sharma, who was working as Supervisor with the respondent-Board, preferred CWP No.17228 of 2014, seeking direction to promote her as CDPO from the date she became eligible for the said post. The said writ petition was disposed of by this Court vide order dated 25.08.2014 (Annexure P-5) and in compliance of the directions issued, the case of said Kusum Sharma was considered and she was promoted as CDPO vide order dated 19.12.2014.

On 17.04.2015, respondent No.2 issued directions to the Board for reversion of the petitioner from the post of CDPO on the ground that as per the relevant rules, no Senior Assistant could be promoted as CDPO. In compliance thereof, the petitioner stands reverted as Senior Assistant vide impugned order, Annexure P-10. Hence, the instant writ petition.

It is contended that as per the practice being followed since 12.09.1997, the post of CDPO was being filled in the ratio of 50:50 amongst the Supervisors and Senior Assistant, on rotation basis. The promotion of the petitioner to the post of CDPO was done strictly in terms of the practice in vogue and by the competent authority. Furthermore, about 10 officials were promoted as CDPOs from amongst the Supervisors and Senior Assistants in the ratio of 50:50 since 12.09.1997, till date. The service rules of 2001 which were relied upon by respondent No.2 while passing order Annexure P-7 are not applicable on the petitioner being employee of the Board.

On the other hand, learned counsel for respondent No.3 states

that the guidelines issued by the Government of India, which sponsors the Integrated Child Development Services Scheme (ICDS), clearly lay down that only supervisors could be promoted to the post of CDPO. Further, the promotion of the petitioner to the post of CDPO is also in contravention of the Punjab Social Security and Development of Women and Children (Group B) Service Rules, 2001 (for short, 'the Rules') (Annexure P-6).

Heard.

As per Appendix 'B' attached with the Rules (Annexure P-6), the following qualification and experience has been prescribed for appointment by promotion to the post of CDPO:-

- (i) From amongst the Assistant Child Development Project Officer working under the control of the Director who have an experience of working as such for a minimum period of two years; and*
- (ii) Female Supervisors; or*
- (iii) If no suitable Assistant Child Development Project Officer is available, then from amongst the female Supervisor, working under the control of the Director, who have an experience of working as such for a minimum period of five years.*

Learned counsel for the petitioner has candidly admitted that at no point of time, the petitioner served as Supervisor, meaning thereby, never did she possess the requisite qualification and experience required for promotion to the post of CDPO. No doubt, she was promoted to the post of CDPO by the competent authority but later on it realized its mistake and rectified the same by reverting her back to the post of Senior Assistant as

she at no stage had the requisite minimum qualification for promotion as CDPO.

In this view of the matter, this Court does not find any irregularity or illegality in impugned orders, Annexures P-7 and P-10. Accordingly, the instant writ petition is hereby dismissed. However, keeping in view the fact that no *mala fide* has been alleged against the petitioner in securing promotion to the post of CDPO, no recoveries be effected from her for the period she performed her duties as such.

11.01.2018
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(JITENDRA CHAUHAN)
JUDGE

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