

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

**CWP-16040-2013 (O&M)
Date of decision : 12.11.2018**

Baljinder Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sanjeev Sharma, Sr. Advocate,
with Mr. Himanshu Dhakla, Advocate,
for the petitioner.

Ms. Bhawna Gupta, DAG, Punjab.

Mr. Akshay Kumar Goel, Advocate,
for respondent Nos.2 to 5.

JITENDRA CHAUHAN, J.

The petitioner seeks quashing of order dated 16.05.2013 (Annexure P-6), passed by respondent No.3, whereby, resolution No.2 dated 07.05.2012, passed by respondent No.4 vide which the petitioner had been appointed as Peon was cancelled.

It is the case of the petitioner the post of peon fell vacant in the Market Committee, Kalanaur, on account of promotion of one Sukhwinderjit Singh from the post of Peon to Clerk on 19.12.2011. In this regard, a complaint was submitted by one Ranjit Kaur, and on inquiry by the DGM, Jalandhar Circle, it was found that said Sukhwinderjit Singh was the son of the then Secretary, Market Committee, Kalanaur-respondent No.4

and had been wrongly promoted. Therefore, resolution No.2(A) dated 19.12.2011 was cancelled and Sukhwinderjit Singh was ordered to be reverted to the post of Peon. Consequent upon the reversion of Sukhwinderjit Singh, the petitioner's appointment was cancelled.

It is contended that the selection and appointment of the petitioner was carried out in totally transparent and fair manner. The criteria for filling up the post in question was unanimously laid down by the selection committee duly constituted under Rule 2(F) of Punjab Market Committee (Class III and Class IV) Service Rules, 1989. Therefore, once selected, the petitioner deserves to be retained in service.

On the other hand, learned counsel for respondent Nos.2 to 5 submits that the petitioner was selected against the post vacated by Sukhwinderjit Singh consequent upon his promotion to the post of Clerk. However, the said promotion suffered from irregularities and thus, Sukhwinderjit Singh was reverted to the post of Peon. Thus, once the post in question was occupied by Sukhwinderjit Singh, the services of the petitioner have been rightly dispensed with.

Heard.

It is not in dispute that the appointment of the petitioner was made after following due procedure. There is no misrepresentation on the part of the petitioner either alleged or proved. Once it is so, the respondents have no right to dispense with his services only on the ground that the post in question fell vacant due to wrong promotion of some other employee. Rather than taking strict action against those who were responsible for said

wrong promotion, the petitioner has been made the scapegoat without any fault on his part. The respondents are well within their rights to annul the resolution whereby Sukhwinderjit Singh was promoted to the post of Clerk. However, it does not automatically annul the resolution approving selection of the petitioner to the post of Peon.

In view of the above discussion, impugned order dated 16.05.2013 (Annexure P-6), thereby, cancelling resolution No.2 dated 7.05.2012 appointing the petitioner as Peon, and all consequent proceedings flowing therefrom, are hereby quashed.

Allowed.

12.11.2018

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(JITENDRA CHAUHAN)

JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No