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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1748-2015

Date of Decision : November 14, 2018

Amar Nath Bansal

.... Petitioner.

Versus

The State of Punjab and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. R.S. Longia, Advocate
for the petitioner.

Mrs. Anju Arora, Addl. A.G., Punjab,
for the respondents.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing impugned order dated 31.08.2012 (Annexure P/18) passed by Departmental Committee constituted by respondent No.1 in furtherance of direction to promote the petitioner on the basis of service record.

2. As per the petitioner, he was appointed as Sectional Officer in respondent-department on 19.1.1968. His services remained good and he was allowed to cross all the efficiency bars on due dates and also got selection grade in different scales. As per the petitioner, he was promoted as Extra Assistant Engineer and then as Junior Engineer.

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3. The petitioner has taken the plea that he was promoted as Sub Divisional Engineer (SDE) on *ad hoc* basis w.e.f. 8.11.1996 and continued to work on the said post till the date of his superannuation and earned Good ACRs during that period, which are as under:-

"1997-98	A = Good	
1998-99	A = Good	Passed Departmental Examination on 6.7.1999.
1999-2000	A = Good	
2000-2001	Very Good"	

Petitioner retired on 30.4.2002.

4. Contention of the petitioner is that as per Rule 9 of the Punjab Service of Engineers Class-II PWD (Public Health Branch) Rules, 1967 (for short, "**1967 Rules**"), the Diploma Engineers, Draftsmen and AMIE qualified Engineers are entitled to be considered for promotion to the post of SDE in their quota and Screening Committee was constituted for this purpose. The petitioner was in the consideration zone, but he was not promoted on the ground that there were adverse remarks in his ACRs for various years. The petitioner filed CWP No. 14026 of 2009 and the same was disposed of by this Court on 24.04.2012 vide order, Annexure P/17 whereby the order dated 25.04.2007 was quashed and the respondents were directed to consider the case of the petitioner for regular promotion as SDE. As per the petitioner, the respondents considered the matter but passed the impugned order dated 31.08.2012 (Annexure P/18) and as such, the petitioner has filed the present writ petition.

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5. In the reply and additional affidavit having been filed by the respondent-State, contention was raised that the name of the petitioner was considered for promotion to the post of SDE, vacancy for which arose before 1.1.1997. However, the criteria of marks issued vide instructions dated 6.9.2001 was wrongly applied. As per the respondents, the relevant instructions issued in this regard, which were applicable to the petitioner, are contained in letter No. 20976 dated 17.10.1995 (Annexure R/1) issued by Department of Personnel and Administrative Reforms, Government of Punjab, according to which the practice of taking into account the service record of last 5 years of an employee for considering him for next promotion was discontinued and the entire service record of such an employee was required to be considered from the date he came to hold the last post from which next promotion is to be ordered. The petitioner had joined on 19.1.1968 as Sectional Officer and then he was designated as Junior Engineer. Again vide letter No. 6434 dated 20.02.1995, the petitioner was re-designated as Extra Assistant Engineer with effect from 1.2.1986 with clear cut stipulation that the said designation shall not be construed as promotion for all intents and purposes and the said re-designation would not carry any higher responsibilities. As per the respondents, in the light of instructions issued by the State of Punjab, the case of the petitioner was considered on 22.11.2006 by the Screening Committee and the petitioner was found ineligible for promotion due to his bad service record i.e., on account of adverse remarks in his ACRs for the years 1968-69, 1970-71, 1972-73, 1974-75, copies of which are at

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Annexures R/2 to R/5 respectively. More so, the Screening Committee constituted under Rule 9 of the 1967 Rules considered the entire service record of the candidates in the light of instructions issued by the Government, dated 17.10.1995 (Annexure R/1) and copy of the proceedings dated 22.11.2006 is at Annexure R/6. As per the respondents, the numbers given year-wise on his ACR summary are correct, but the system of numbering on ACR for the purpose of promotion was started in the year 2001 vide Punjab Government instructions No. 4/6/2000-3PPI/13720 dated 6.9.2001 prospectively. Therefore, the criteria of marks could not apply for promotion to a post which arose in the year 1997. Even the petitioner himself alleged that such a criteria could not be applied to his case and as such, the case of the petitioner has rightly been considered by the respondents and the present writ petition be dismissed.

6. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that most of the facts are not disputed with regard to date of joining and date of superannuation of the petitioner. However, the only point to be seen in this writ petition is – whether the entire service record of the petitioner was to be considered at the relevant time for considering him for next promotion or relevant record for 5 years was to be considered. The respondent-State has rightly come with the plea that as per the instructions issued vide letter No. 20976 dated 17.10.1995 (Annexure R/1), the practice of considering the service record of last five years of an employee for further promotion was discontinued, whereas, the petitioner

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herein superannuated on 30.4.2002. That way, the said instructions were applicable to the petitioner as well and the respondents have rightly considered the case of the petitioner while taking into account the entire service record which also contains adverse remarks for the years 1968-69, 1970-71, 1972-73, 1974-75 and on the basis of that, the case of the petitioner was not found favourable for promotion and the impugned order dated 31.08.2012 (Annexure P/18) was passed by the respondents. The same does not call for any interference by this Court.

7. In view of the above, there is no merit in the present writ petition and the same stands dismissed

(SHEKHER DHAWAN)
JUDGE

November 14, 2018.
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Whether speaking/reasoned? :	Yes
Whether reportable? :	Yes

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