

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Civil Writ Petition No.14999 of 2018 (O & M)

Date of Decision: *August 07, 2018*

Salinder Pal Verma

..... PETITIONER

VERSUS

Haryana State Pollution Control Board, Panchakula

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. R. Kartikeya, Advocate, for the petitioner.

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Jaspal Singh, J

Through the instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought for issuance of a writ in the nature of Certiorari, quashing orders dated October 26, 2016 (Annexure P-10) and January 28, 2016 (Annexure P-8) to the extent of granting him deemed date of promotion w.e.f. May 18, 2012; as well as for issuance of a writ in the nature of Mandamus, directing the respondents to grant him deemed date of promotion w.e.f. February 04, 2004 alongwith all consequential benefits.

Petitioner (a diploma holder engineer) was appointed as Junior Environment Engineer in Haryana State Pollution Control Board (for short, 'Board') vide order dated March 18, 1981. He was promoted as Assistant Environmental Engineer vide order dated October 15, 1992. While

ignoring the 8 years of experience of petitioner on the post of Assistant Environmental Engineer, respondents – Board promoted one S.P. Rathee as Environmental Engineer vide order dated May 11, 2000. Later on, one Chand Saini was also promoted as Environmental Engineer on October 03, 2002.

Petitioner approached this Court by filing CWP No.17180 of 2002, *inter alia* contending that vacancies of Environmental Engineer were available in the cadre and in terms of draft rules, diploma holders were also declared to be eligible for promotion to the post of Environmental Engineer. The petition stood admitted for regular hearing.

During the pendency of aforesaid writ petition, one P.K. Sharma (junior to petitioner and diploma holder) sought for consideration of his promotion to the post of Environmental Engineer which earlier stood declined vide order dated July 06, 2010 which was challenged by the petitioner by way of CWP No.1234 of 2011. The said petition was allowed vide judgment dated January 10, 2012. Respondents – Board filed review application followed by LPA which stood dismissed vide judgment dated April 09, 2012. SLP preferred by the respondents – Board was also dismissed vide order dated October 20, 2014. Accordingly, P.K. Sharma was promoted to the post of Environmental Engineer.

Petitioner filed a civil miscellaneous application in CWP No.17180 of 2002 seeking its disposal in terms of judgment passed in the case of P.K. Sharma and the petition was disposed of vide order dated October 03, 2013 with the direction that rights of petitioner would be governed by the principles of law laid down in case 'Haryana State Pollution Control Board vs. P.K. Sharma' (Annexure P-5). Consequently, petitioner

came to be promoted as Environmental Engineer w.e.f. May 18, 2012 with actual monetary benefits vide order dated January 28, 2016 (Annexure P-8). Petitioner retired from service on December 31, 2016 on attaining the age of superannuation.

Learned counsel for the petitioner has contended that petitioner is entitled to grant of deemed date of promotion w.e.f. February 04, 2004 as his juniors had already been promoted prior to filing of writ petition preferred by the petitioner and he was deprived of the benefits of promotion. Petitioner has suffered an acute financial loss. As such, instant petition is liable to be allowed; orders dated October 26, 2016 and January 28, 2016 deserve to be quashed to the extent of granting the petitioner deemed dated of promotion w.e.f. May 18, 2012; and a direction be issued to the respondents to grant him deemed date of promotion w.e.f. February 04, 2004 alongwith all consequential benefits.

This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the petitioner and gone through the record available but does not find any legal substance in the submissions of learned counsel for the petitioner.

Undisputably, petitioner has been promoted after filing a writ petition which was decided in terms of CWP No.1234 of 2011, decided on January 10, 2012 preferred his co-employee P.K. Sharma, which attained finality upto the Hon'ble Apex Court. It is also an admitted fact that petitioner is not a Degree holder and has been promoted only after intervention/ in compliance of the judgments passed by this Court in P.K. Sharma's case wherein he was held entitled to be considered for promotion.

There is no observation in respect of the fact that petitioner ought to be

promoted from the year 2004. The respondents – Board, in compliance of orders passed by this Court, considered petitioner’s claim and promoted the petitioner vide order dated January 28, 2016, that too retrospectively w.e.f. May 18, 2012. Meaning thereby that he can’t be given any benefit over and above given to P.K. Sharma in pursuance of the order passed in CWP No.1234 of 2011, particularly when the earlier petition preferred by the present petitioner has been disposed of in terms of the relief granted in aforementioned P.K. Sharma’s case i.e. CWP No.1234 of 2011. Otherwise also, he stands estopped from claiming his promotion w.e.f. 2004. In this view of the matter, this Court is of the considered view that there is no fault in the impugned orders passed by the respondents – Board and petitioner is not entitled to claim promotion from further retrospective date i.e. February 04, 2004.

In a nutshell, there is no merit in the instant petition and same is accordingly dismissed with no order as to costs.

August 07, 2018
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No