

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.734 of 2012 (O&M)

Date of Decision: 22.05.2018

B.S. Sehrawat

...Petitioner

Vs.

State of Haryana

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Bikramjit Singh Patwalia, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

Mr. Gurminder Singh, Senior Advocate with
Mr. J.S. Gill, Advocate
for respondent No.3.

RAJIV NARAIN RAINA, J. (Oral)

1. As per directions of this Court in CWP No. 40660 of 2009, an independent committee has been ordered to be constituted, which has since been constituted to deliberate upon the seniority issues in the cadre of Deputy Director *inter alia* involving the cases of Arjun Singh Saini and B.S. Sehrawat etc. Mr. Patwalia points out that there is a previous Committee report which has been submitted by the Government before this Court but despite that the Government has constituted a Committee on court directions comprising senior officers other than from the parent department to go into the *inter se* seniority dispute. That report has not been submitted despite receiving objections.

This Committee would have to give fair hearing to the competing interests of the persons likely to be affected and take an independent and rational decision based on the rules of seniority etc. and on the guiding factors thereof having regard to the service records etc. of the eligible candidates whose cases are under consideration. To achieve this end without any obstacle, the observations made by the Financial Commissioner and Under Secretary to Government, Haryana, Agriculture Department in his order dated 22.12.2011 shall not be used to influence the consideration by the present Committee in expressing its final opinion of the Government on the issues involved for determination. Those words culled from the order read as follows:

“The petitioner has filed this writ petition seeking writ of certiorari/mandamus to challenge the promotion of respondent No.2 as Deputy Director granted vide order dated 02.03.2009 (Annex. P-4) w.e.f. 19.04.2004. Challenge is also made to the promotion of respondent No.3 as Deputy Director w.e.f. 01.05.2004. The petitioner made a claim for preferential promotion over these respondents. As per Mr. Rathee, the relief claimed by the petitioner has now been granted as can be seen from Annexure R-1. The petitioner has been promoted as Joint Director, Horticulture and has also been ranked senior to the respondents. Thus the grievance raised in the writ petition stands satisfied.

2 The order dated 14.10.2005 passed in CWP No. 40660 of 2009 in case titled as Arjun Singh Saini Vs. State of Haryana and

others, will henceforth be read in the light of this order where final decision is yet to be taken by the Committee. The final decision of the Committee will be open to challenge in this Court by any of the aggrieved parties.

3. The institution of the 2nd Committee is also under challenge by the petitioner on the subject matter as according to the petitioner there is no order passed by the Court for constitution of the said Committee.

4. Be that as it may, the statement makes no difference for an independent decision to be taken by the Committee and thereafter by cadre controlling authority of the State Government superior to the Committee. The objections filed by the client of Mr. Patwalia would be considered in the context of the objections filed by party represented by Mr. Gurminder Singh, learned Senior counsel.

5. The new Committee stands constituted on 18.08.2017 by the Haryana Government in the name of the Governor of Haryana in the light of the interim orders dated 20.02.2017 passed in LPA No. 957 of 2016 by this Court. It is directed that observations and findings given in the old report dated 14.07.2017 may be treated as infructuous and shall not be used for any official purpose and will be read in a manner that parties will be at liberty to argue on the core facts of their respective cases which paragraph No.3 of the order does not debar. The entire exercise of constituting the new Committee as envisioned in the order

of the Court is that the State Government would make a fair decision strictly in accordance with law.

6. Mr. Gurminder Singh contends that the order dated 18.08.2017 has not been challenged by the petitioner till date. Mr. Patwalia responds to this saying that he was well within his right to file objections in the first instance before the Administrator in the department including for validation of the old committee report which shall be looked into by the authorities in State government and a fair and independent decision be taken in accordance with law determining the seniority disputes amongst the stake holders.

7. It is expected that the new committee will complete the entire exercise within a reasonable time. The State Government shall take a final call on the findings of the Committee within the next two months and publish its views and convey the same to the parties.

8. With these observations, the petition stands disposed of with no order as to costs.

(RAJIV NARAIN RAINA)
JUDGE

22.05.2018

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