

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-22091-2017 (O&M)
Date of Decision: 15.12.2018

Bal Krishan

--Petitioner

Versus

State of Punjab & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. M.K. Singla, Advocate for the petitioner.

Ms. Rukhsaar Dhindsa, A.A.G., Punjab.

Mr. Arundeeep, Advocate for
Mr. R.S. Pandher, Advocate for respondent no.3.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioner, who is serving on the post of Superintendent Grade-II under the Department of Local Govt., Punjab has filed the instant writ petition praying for the issuance of a Writ of Mandamus for directing the respondent authorities to consider his claim for promotion as Superintendent Grade-II w.e.f. 25.10.2011 and further promotion to the post of Executive Officer Grade-III w.e.f. 30.6.2015 i.e. the date his juniors have been so promoted.

Upon notice of motion having been issued, reply on behalf of respondents no.1 and 2 has been filed and placed on record.

In the written statement a stand has been taken that the petitioner had been denied the benefit of promotion to the post of Superintendent Grade-II w.e.f. 25.10.2011 and to the post of Executive Officer Grade-III w.e.f. 30.6.2015 at par with his juniors on account of the fact that the petitioner had been proceeded against departmentally for imposition of a major penalty under Rule 8 of the Punjab Civil Service (Punishment & Appeal) Rules, 1970. Charge sheet in such regard was

stated to have been issued on 23.5.2005. Furthermore, it has been stated in the reply that vide order dated 6.7.2012 passed by the competent authority, a major penalty of stoppage of three annual increments with cumulative effect was imposed. In a nutshell the case put forth on behalf of the State is that the claim of the petitioner in view of the major penalty imposed cannot be equated with his juniors in so far as benefit of promotion is concerned.

During the course of hearing today it has gone uncontroverted that the petitioner filed CWP-15169-2015 assailing the action of the respondent authorities as regards imposition of major penalty and such writ petition was allowed in the following terms on 12.10.2018:-

“At the outset, learned State counsel, on instructions, states that after investigation, it was found that the charge-sheet filed against the petitioner was ill-conceived and the competent authority has taken a decision to withdraw the same as no substance was found in the allegations raised against the petitioner with regard to selling lesser area of land to one M/s Tilak Ram Kisan Chand.

In view of above, the present civil writ petition is allowed. The impugned charge-sheet dated 23.05.2005 (Annexure P-5), inquiry report (Annexure P-7), punishment order dated 06.07.2012 (Annexure P-9) and order dated 26.06.2015 (Annexure P-12) are set aside. All the necessary benefits shall be given to the petitioner within four weeks from the date of receipt certified copy of the order. If the needful is not done in the stipulated period, the petitioner shall have liberty either to revive the present petition or to file a fresh one on the same cause of action.”

Perusal of the order dated 12.10.2018 while allowing CWP-15169-2015 would clarify that a stand had been taken by the State that the charge sheet issued to the petitioner upon inquiry and investigation was

found to be ill conceived and as such, the competent authority had taken a decision to withdraw the same. Accordingly, the charge sheet dated 23.5.2005, inquiry report, punishment order dated 6.7.2012 as also the order dated 26.6.2015 passed by the Appellate Authority had been set aside by this Court. Furthermore, the Coordinate Bench while passing order dated 12.10.2018 in CWP-15169-2015 had directed that all the necessary benefits be given to the petitioner within four weeks from the date of receipt of a certified copy of the order.

In the light of the facts and circumstances enumerated herein above, there would be no legal impediment as regards the petitioner to be granted promotion to the post of Superintendent Grade-II w.e.f. 25.10.2011 and to the post of Executive Officer Grade-III w.e.f. 30.6.2015.

Accordingly, the instant writ petition is allowed. As a direct consequence and corollary to the order of major penalty having been set aside by this Court, petitioner is held entitled to all consequential benefits including that of promotion as Superintendent Grade-II w.e.f. 25.10.2011 and to the post of Executive Officer Grade-III w.e.f. 30.6.2015.

Necessary orders in such regard be issued forth with.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

15.12.2018

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