

209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4189-2013

Date of decision-12.10.2018

Partap Chand

...Petitioner

Vs.

Municipal Corporation, Amritsar

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Patwalia, Advocate,
for Mr. H.S. Dhindsa, Advocate,
for the petitioner.

None for the respondent.

JITENDRA CHAUHAN, J. (Oral)

The claim of the petitioner in the instant writ petition filed under Articles 226/227 of the Constitution of India is for issuance of a direction to the respondent to consider the case of the petitioner for promotion to the post of Work Mistry being the senior most and eligible Mason working with the respondent-Corporation.

It is the case of the petitioner that he was appointed as a Mason on ad hoc basis in the year 1982 and his services came to be regularised in the year 1996. The post of Work Mistri fell vacant in the year 2008. The petitioner being matriculate and fulfilling all the relevant conditions, ought to have been promoted as Work Mistri. However, the case of the petitioner was ignored and one Major Singh, Beldar, was given promotion to the post in question. Feeling aggrieved, the petitioner moved a representation dated

17.05.2010 (Annexure P-1) and thereafter, served legal notice dated 22.09.2010 (Annexure P-2). In the month of December, 2011, one more post of Work Mistry fell vacant on promotion of one Ashok Kumar to the post of Junior Engineer. However, despite the fact that the said post is still lying vacant, the same has not been offered to the petitioner despite being eligible.

On the other hand, the respondent filed reply stating therein that in the seniority list of masons, the name of the petitioner falls at serial No.18, i.e. he is the junior-most mason working with the respondent-Corporation. The rules called the Amritsar Municipal Corporation Employees (Regulation & Conditions of Service) Regulation 1981 were quashed by this Court and now, the rules of PWD (B&R) are being followed by the Department for the purpose of promotions to the post of Work Mistri.

Heard.

A perusal of the list of 19 masons working with the respondent-Corporation appended with the reply filed reveals that the employees mentioned at Sr. Nos.1, 2, 4, 5, 8, 9, 10, 11, 13, 14, 15 and 17 have already retired from service, whereas, the person at Sr. No.7 has already left the job. Admittedly, the essential qualification as per rules for promotion to the post of Work Mistry is matriculation. The petitioner possesses the requisite qualification. With the replication, the petitioner has submitted affidavit (Annexure A-2) of the 10 masons senior to the petitioner stating therein that only the petitioner is a matriculate and therefore, they would have no objection, in case, he is promoted to the post in question. It is also not in

dispute that the post which fell vacant upon promotion of one Ashok Kumar as Junior Engineer, in the month of December, 2011, is still lying vacant.

In view of the above, the instant petition is allowed and the petitioner is ordered to be given deemed promotion from the date the post in question fell vacant upon promotion of said Ashok Kumar. The petitioner shall be entitled to all consequential benefits for the purposes of pay and seniority. However, he shall not be paid any arrears for the said period. The necessary exercise be completed within a period of six weeks from the date of receipt of a certified copy of this judgment.

(JITENDRA CHAUHAN)
JUDGE

12.10.2018

atulsethi

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