

116 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-2242-2018

Date of decision-20.04.2018

Manoj Kumar

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Hari Om Sharma, Advocate for the petitioner.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed seeking directions to the respondents to consider the petitioner as Clerk from the date of his initial appointment dated 06.06.2005 with all consequential benefits including arrears of difference of pay with interest.

It is the case of the petitioner that his father was working as Clerk in the office of Deputy Commissioner, Ferozepur. After his death on 01.01.1995, petitioner's mother was appointed as a Class IV employee on compassionate grounds. On 03.11.2001, the mother of the petitioner also died. Upon attaining the age of majority, vide application dated 16.05.2002 (Annexure P-1), the petitioner applied for appointment as Clerk on compassionate grounds. The petitioner along with one Gagandeep and one Yashpal were interviewed by Additional Deputy Commissioner, Ferozepur on 14.12.2004 and on the basis of his report, the petitioner was given offer

of appointment for the post of Peon. The grouse of the petitioner is that Gagandeep and Yashpal being less meritorious were appointed as Clerk-cum-Typist, whereas, the petitioner was offered a Class IV post.

I have heard learned counsel for the petitioner and have gone through the case file.

The report of the Additional Deputy Commissioner, Ferozepur dated 14.12.2004 reads as under:-

“I have interviewed 6 candidates Ms. Babli Sharma and Ms. Manju Bala are to be given posts of peon. I feel they are fit for it. Remaining four candidates viz.Sh.Gagandeep, Sh.Yash Pal, Sh.Manoj and Sh.Tarsem Kumar are to be given posts of Clerks. Of these four only Sh.Gagandeep and Sh.Yashpal seem to have clerical aptitude. They can fluently read English, Punjabi and solve elementary mathematical problems I think they are fit for clerical cadre. Remaining 2 candidates viz.Manoj and Tarsem Kumar seem quite weak to me. Learned D.C.may if he deems fit given them personal hearing before deciding their case”.

Thereafter, the petitioner, vide order 28.02.2005 (Annexure P-3) was offered the appointment as Class IV (Peon) which he accepted and vide order dated 05.04.2005, the petitioner was appointed as such. After one year of the said appointment, the petitioner moved representation dated 06.04.2006 with the request that the orders offering him appointment as Peon may be reviewed and he be given appointment as Clerk. There is no explanation as to why the petitioner accepted the appointment as Peon in the first instance. He has also not explained the delay in moving the

representation dated 06.04.2006 whereas he was initially appointed as Peon vide order dated 05.04.2005. Even otherwise, the petitioner stands promoted as Clerk vide order dated 27.07.2012. The report of Additional Deputy Commissioner, Ferozepur, who interviewed the candidates has specifically pointed out that the petitioner was not suitable for appointment as Clerk and accordingly, his case was considered for the post of Peon. The said report was accepted by the higher authorities and acted upon by the Department. Learned counsel has failed to show that the findings recorded by Additional Deputy Commissioner, Ferozepur were perverse.

Thus, in view of the discussion, this Court is not inclined to interfere in the impugned order.

Consequently, the present writ petition sans merit, stands dismissed.

(JITENDRA CHAUHAN)
JUDGE

20.04.2018

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