

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.29363 of 2017

Date of Decision: 23.02.2018

Dharam Chand

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Surender Singh Dalal, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioner and the 3rd respondent are both compassionate appointees. Their fathers died in harness working as Peon and Sub Inspector respectively in the office of the Registrar, Cooperative Societies, Haryana. The petitioner's father died in 1994 and he was appointed as Peon in 1996. The father of the 3rd respondent died in 1999 and he was appointed as Peon in 2000. Both were promoted as Clerks on September 13, 2007. In the seniority list, the name of the petitioner figured at Sr. No.10 while the 3rd respondent was at Sr. No.19. Accordingly, the petitioner was senior to the 3rd respondent as Peon and Clerk.

2. One fine day of November 2006, the 3rd respondent submitted a representation to the department requesting appointment as Sub Inspector because his father held that post. The request was accepted and 3rd respondent was promoted as Sub Inspector in 2008. The order of promotion of 3rd respondent was challenged in CWP No.18020 of 2011. During the pendency of the writ petition, the Registrar, Cooperative Societies, Haryana withdrew the order or promotion of the 3rd respondent. This led the 3rd

respondent to file CWP No.16405 of 2014 challenging the order of reversion in which he did not implead the petitioner as a respondent and secured favourable order on May 30, 2017 from this Court behind the back of the petitioner when the petition was allowed and the reversion order dated August 12, 2014 was set aside. Not being a party, the petitioner asserts that the order is not binding on him. The State has filed an internal appeal against the order and judgment of the single bench, which LPA is pending.

3. In these circumstances, feeling aggrieved the petitioner served a legal notice dated August 09, 2017 (P-7) on the respondents. In his representation, the petitioner has brought out a gross misstatement made by the 3rd respondent before this Court as recorded in the order stating that he was appointed as a 'Clerk' on compassionate grounds while the fact is that he was appointed as a Peon, one step lower than the post held by the dying employee as per policy. Therefore, the judgment and order proceeded on that assumption. The legal notice demands from the department restoration of the petitioner's seniority above the 3rd respondent for any future promotion as Sub Inspector etc. This notice has not been decided so far.

4. The request of Mr. Dalal is fair and reasonable that the legal notice deserves attention and a decision thereon.

5. Accordingly, a direction is issued to the 2nd respondent to consider the legal notice and take a final decision thereon and convey the same to the petitioner within two months from the date of receiving of certified copy of this order.

6. With these observations and directions, the petition stands

disposed of.

23.02.2018
manju

(RAJIV NARAIN RAINA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>