

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.W.P. No. 9069 of 2017 (O&M)
Date of Decision: 28.11.2018

Jasbir Singh .. Petitioner

vs.

Union of India and others .. Respondents

Coram: Hon'ble Mr. Justice Rajiv Sharma
Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. S.P. Arora, Advocate and
Mr. Himanshu Arora, Advocate
for the petitioner.

Mr. Vivek Chauhan, Advocate
for respondent No.1-UOI.

Mr. Salil Sablok, Advocate
for respondent No.3.

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Rajiv Sharma, J.

The petitioner has sought judicial review of the order dated 09.12.2016 rendered by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'the Tribunal') passed in OA No. 060/00996/2015.

The brief facts necessary for adjudication of the petition are that the petitioner was appointed as Lower Division Clerk (LDC) on 06.01.1986. He was promoted as Upper Division Clerk (UDC) on 19.12.1994. He was re-designated as Senior Tax Assistant. The post of UDC/Senior Tax Assistant is in Feeder Cadre for the promotion to the post of Inspector. The petitioner figured at Sr. No. 169 as Senior Tax Assistant vis-a-vis Rajiv Kaushas, who was at Sr. No. 205.

It is not in dispute that the petitioner has passed qualifying examination in the year 1999 and Rajiv Kaushas-respondent No.3 passed in the year 2006.

The fact of the matter is that the petitioner was promoted to the post of Inspector on the basis of the recommendation made by DPC on 31.10.2013. However, the person, junior to the petitioner, Rajiv Kaushas was promoted as Inspector w.e.f. 25.02.2011. The petitioner being senior to Rajiv Kaushas as per the seniority list and also coupled with the fact that he has qualified the examination in the year 1999, should have been considered from the date when the person, junior to him, was considered i.e. 25.02.2011.

Learned Tribunal has erred in law by ignoring this vital fact.

Accordingly, the writ petition is allowed. The impugned order is set aside. Respondents No.1 and 2 are directed to consider the case of the petitioner for promotion alongwith all consequential benefits from the date when Rajiv Kaushas was promoted within a period of ten weeks from the date of receipt of copy of this order.

(Rajiv Sharma)
Judge

(Harinder Singh Sidhu)
Judge

28.11.2018
Atul