

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.7577 of 2018

Date of Decision:-27.03.2018

Hari Singh.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Hitesh Verma, Advocate for Petitioner.

JASWANT SINGH, J.

Petitioner Hari Singh who is a regular employee and working as Watchman (Chowkidar) with the respondent no.3 i.e. Executive Engineer (Punjab Mandi Board, Barnala) has sought quashing of the office order dated 29.01.2018 (**P-6**), whereby the petitioner has been allegedly reverted back to the post of Watchman from the post of Driver.

Learned Counsel for the petitioner has argued that the petitioner was initially appointed on Work Charge daily Basis as a Watchman by respondent no.3. Subsequently his services were regularized as a Watchman (Chowkidar) vide order dated 4.4.1999. However, due to paucity of drivers, the petitioner was asked by the respondent no.3 to discharge the duties as a driver of Jeep No.PB65H 4272 and since 2010 the petitioner has been discharging his duties. The said act stands corroborated from documents Annexure P-2 & P-3 whereby sanctions have been

accorded to respondent no.3 so as to procure the work of a driver from the petitioner. It is further argued that similarly situated employees who were similarly placed as the petitioner and were assigned duties of drivers were promoted to the post of drivers vide order dated 1.6.2015 (**P-4**). However, the petitioner has been illegally reverted back to the post of Watchman/Chowkidar without assigning any reason. Thus, the petitioner was constrained to issue a legal notice P-7 dated 6.2.2018, which has been replied by respondent no.3 vide reply dated 16.02.2018 (**P-8**), whereby the request of the petitioner has been wrongly declined. Thus prayer has been made for setting aside the order dated 29.01.2018 (**P-6**) as well as reply dated 16.02.2018 (**P-8**).

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and deserves to be dismissed.

A perusal of the paperbook would reveal that due to the acute shortage of drivers at the Divisional Office Barnala, petitioner was assigned the duty to drive the aforementioned Jeep, however, it was categorically stated that he will not be paid any extra wages for driving the vehicle. It is not in dispute that while performing the duties of a driver, petitioner drew the salary of a Watchman and not as driver. Meaning thereby, the petitioner had been working as a driver on asking of the respondent no.3-Department for which wilful consent was given by the petitioner himself. The Offering of a task to an employee, who is completely unrelated to the post upon which he is working, does not create any vested right in him to seek his appointment/promotion to the post upon which he has been discharging his duties. It is the sole prerogative of the employer to appoint him on such

post or to relieve him of his additional duty and direct him to discharge the duties upon the post, on which he was originally appointed and is drawing his salary.

A perusal of the impugned order **P-6** would reveal that the petitioner has been asked to be relieved from his duty of a driver and discharge his duty as a Watchman and thus, it cannot be said that the impugned order suffers from any illegality or perversity at all or petitioner has any vested right for seeking his appointment/promotion. Merely because the petitioner was discharging duty as a driver for a few years does not entitle him automatically for being promoted to the post of driver.

As far as the second argument raised by the petitioner regarding other similarly situated employees being promoted as drivers is concerned, perusal of the entire petition, especially paragraph no.6 would show that only a vague averment has been made, which is not corroborated as to under what circumstances the said employees, as mentioned in order dated 1.6.2015 (**P-4**) were appointed and what was their nature of duties and whether they were indeed similarly placed chowkidars or not. In any case, promotion of the said persons to the post of drivers does not, *ipso facto*, entitles the petitioner to seek a similar relief.

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

March 27, 2018
Vinay

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