

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

CWP No. 5829 of 1998
Date of decision: 12.12.2019

Dildar Khan and others

.....Petitioners

V/s.

National Fertilizer Limited and others

.....Respondents

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: - Mr. Aditya Chadha, Advocate
for the petitioners.

Mr. Vipin Mahajan, Advocate,
for the respondent No.1.

Sanjay Kumar, J. (Oral)

The prayer of the petitioners, nine in number, was to declare the promotion of the third and fourth respondents as Junior Material Officers in the service of National Fertilizer Limited, the first respondent, *vide* orders dated 26.03.1996 (Annexure P-4) and 31.03.1998 (Annexure P-9), as illegal. A consequential direction was sought to the first respondent to consider the petitioners for such promotion with effect from the date persons junior to them had been promoted with all consequential benefits, including arrears along with interest thereon.

The record reflects that the second, third, sixth and ninth petitioners chose to withdraw from this case. The writ petition was

accordingly dismissed insofar as they were concerned, *vide* separate orders passed in May 2006 and May 2018. The first and seventh petitioners already retired from service while the eighth petitioner is no more. The fourth petitioner is stated to be still in the service of the first respondent and would attain the age of superannuation on 31.01.2020. The fifth petitioner still continues in the service of the first respondent but has been transferred to Lucknow.

The case of the petitioners was that they belonged to the discipline of 'Stores to Remain' in the first respondent company, having been appointed as Store-men in 1989. They were promoted as Store Keepers thereafter and their next promotion was to the post of Junior Material Officers (Stores). Their grievance in the present writ petition was that the third and fourth respondents, who belonged to the discipline of Stenographers were illegally brought into the discipline of Stores and promoted as Junior Material Officers.

However, the written statement filed by the first respondent stated to the effect that the third and fourth respondents were not appointed as Junior Material Officers in the Stores discipline but in the Purchase discipline. The 'Permanent set-up' in the first respondent, communicated by the Manager (Personnel) of the first respondent's Head Office to the General Managers at various locations, on 22/27.04.1985 demonstrates that the posts of Junior Material Officers were available both in the Purchase as well as the Stores wings of the first respondent. The orders of promotion of the third and fourth respondents do not indicate that they were promoted as

Junior Material Officers in the Stores wing. According to the written statement, the posts of Junior Material Officers in the Stores wing are technical in nature while those in the Purchase wing are non-technical in nature and therefore, the third and fourth respondents could be accommodated in such posts.

Mr. Aditya Chadha, learned counsel for the petitioners, would contend that the cause in this writ petition would survive insofar as the first, fourth and fifth petitioners are concerned, as they would be entitled to claim parity with the third and fourth respondents, despite the efflux of time, and seek retrospective promotion on par with them.

However, Mr. Vipin Mahajan, learned counsel appearing for the first respondent, would point out that the prayer of the petitioners, in specific terms, was for being granted promotion on par with their juniors. He would assert that no material has been placed on record to establish that the third and fourth respondents were, in fact, junior to any of the petitioners. He would further state that as the third and fourth respondents were not promoted in the Stores wing, in which the petitioners were working, and as the petitioners' promotion to the category of Junior Material Officers in the Stores wing was not effected by the appointment of the third and fourth respondents, the prayer of the petitioners is completely misconceived.

Perusal of the writ petition reflects that the petitioners did not either state or demonstrate as to how they claimed to be seniors of the third and fourth respondents, even in different wings. However, as rightly pointed

out, their prayer specifically seeks relief in terms of the petitioners being promoted with effect from the date persons junior to them were promoted. In the absence of any material to show that the third and fourth respondents were juniors of the petitioners, even in the other wing, or that any other junior of the petitioners was promoted overlooking them, the said prayer cannot be countenanced.

Further, the averment in the written statement to the effect that the third and fourth respondents were appointed in an altogether different wing, viz, the Purchase wing, as opposed to the Stores wing in which the petitioners were working, remains unrebutted though the petitioners filed their replication.

In that view of the matter, the petitioners cannot claim parity with the third and fourth respondents.

The writ petition is therefore devoid of merit and is accordingly dismissed.

No order as to costs.

(SANJAY KUMAR)
JUDGE

12.12.2019

rakesh

whether speaking/non speaking : *Yes/no*

whether reportable/non reportable : *Yes/no*