

Sr. No.201

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

CWP No.644 of 1998 (O&M)

Date of Decision: 07.11.2019

Harnam Dass

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. A.S.Syan, Advocate,
for the petitioner.

Mr. P.S.Bajwa, Additional A.G., Punjab.

Mr. Arun Nehra, Advocate and
Mr. Sant Kashyap, Advocate,
for respondents No.3 and 4.

ARUN MONGA, J.(ORAL)

1. *Inter alia* issuance of a writ in the nature of mandamus has been sought by the petitioner directing respondents to accord him promotion as Senior Assistant with effect from 15.05.1993 or in the alternative with effect from the date when immediate junior of the petitioner was granted promotion in the SC category to which the petitioner belongs.

2. I have heard learned counsel for the petitioner. A perusal of the order dated 12.09.1997 (Annexure P-5) impugned herein would clearly reflect that the petitioner's claim for promotion was not declined but was merely kept pending to await the decision of SLP No.9516 of 1995, which at the relevant time was pending before the Hon'ble Supreme Court of India.

3. The then Division Bench, which was seized of the writ petition adjourned the present petition sine die with an observation that the same be listed for hearing after the decision in SLP No.9516 of 1995.

4. Vide judgment dated 24.08.1999, said SLP No.9516 of 1995, which was later converted into Civil Appeal No.11660 of 1995 and the same was disposed of in the following terms:-

“35. For the aforesaid reasons emerging from the facts and circumstances of this case we issue the following directions:

1) All vacancies on the post of Assistants/Senior Assistants prior to 21.01.1991 are to be filled up by those who qualified by passing the examination and the exemptees would have no claim on such vacancies.

2) All vacancies after 21.01.1991 shall be filled in the ratio of 70 per cent and 30 per cent between the exemptees and the qualifiers in the examination respectively, for each year in question till all the existing qualifiers are absorbed.

3) All promotions or reversions made have to be readjusted within the aforesaid framework, irrespective of any interim orders then in force.

4) Those incumbents who worked on the post of Assistant/Senior Assistant on account of promotion orders and in case they have to be reverted or have

been reverted, any salary or consequential amount paid to such employees for working on the post of Assistant/Senior Assistant shall not be taken back from them. Similarly, if any employee gets promotion to the post of Assistant/Senior Assistant from an earlier date, he/she will not be entitled to any arrears of salary.

5) The State shall complete this exercise of promotion on the abovesaid formula on or before 31.12.1999; till then the existing arrangement shall continue.

6) So far as two appellants in the appeal of Ravi Lamba are concerned, since they were promoted prior to 21.01.1999, for which there is no dispute and their reversion order being held illegal, they may be promoted forthwith and they may not be asked to wait for the final exercise of promotion in all other cases.”

5. In view of the directions issued by Hon'ble Apex Court, no interference is called for by this Court.

6. Writ petition is disposed of with a direction to the competent authority to pass speaking orders as envisaged in impugned order 12.09.1997 (Annexure P-5), wherein it has been stated that the petitioner's claim for promotion would be considered after disposal of the SLP No.9516 of 1995.

7. It is expected of the respondents to proceed as per the judgment rendered in Civil Appeal No.11660 of 1995 before

passing a speaking order.

8. Let the needful be done within a period of 3 months from the date of receipt of a certified copy of this order.

9. In case, petitioner is found entitled to the benefits of promotion as claimed by him, the consequential pecuniary benefits shall disbursed to him along with interest @ 6% per annum with effect from the date of entitlement till the actual date of disbursement.

10 Let the same be also done within a period of 3 months thereafter.

07.11.2019

vandana

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No