

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

**CWP No.11387 of 2019 (O&M)
Date of Decision.08.07.2019**

Rajinder Kumar Saini

...Petitioner

Vs

State of Haryana and another

..Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ashwani Talwar, Advocate
for the petitioner.

-.-

AMIT RAWAL J. (ORAL)

C.M. No.9513 of 2019

For reasons stated in application, hearing of main
petition is preponed and matter is taken up today itself for disposal.

Application is allowed.

CWP No.11387 of 2019

The short point involved in this case is that an officer,
who has foregone his promotion, can seek posting in Gurugram,
Faridabad, Rohtak, Sonapat and Panipat NCR region.

Mr. Ashwani Talwar, learned counsel appearing on
behalf of petitioner submitted that petitioner joined Labour
Department as Statistical Officer on 26.05.1999 and promoted to the
post of Deputy Labour Commissioner on the basis of seniority-cum-
merit vide order dated 9.1.2009. On the basis of seniority-cum-merit,
case of petitioner was considered for further promotion and vide
order dated 20.11.2018 (Annexure P-1) promoted to the post of Joint
Labour Commissioner. State Government came out with instructions
dated 2.11.1992 that an officer, who foregoes his promotion owing to

family circumstances, would not be considered for at least one year for promotion and person promoted during this period would rank senior to him.

Since family circumstances of petitioner did not permit posting to Chandigarh, he was forced to apply for grant of extension of one year for joining as Joint Labour Commissioner vide letter dated 22.11.2018 (Annexure P-3). In response to aforementioned letter, respondent No.1 informed petitioner vide letter dated 29.11.2018 (Annexure P-4) that in case he did not join, he had to forego his promotion in terms of instructions of State Government. Accordingly, petitioner vide letter dated 29.11.2018 (Annexure P-5) foregone his promotion. Petitioner was transferred from his original posting at Gurugram to post of Deputy Labour Commissioner at Rohtak and incumbent posted at Rohtak was transferred to Gurugram. Respondents vide order dated 10.01.2019 (Annexure P-7) accepted request of petitioner to forego his promotion with condition that he will not be considered for posting in District Gurugram, Faridabad, Rohtak, Sonapat and Panipat, which was totally alien to the instructions. Petitioner requested respondents to remove condition of not being posted in aforementioned districts, however, vide order dated 14.02.2019 (Annexure P-8), respondent No.1 intimated that once an officer is allowed to forego promotion, he shall not be allowed to be posted in NCR. In such circumstances, instant writ petition has been filed.

I am afraid aforementioned argument would not be sustainable for simple reason that vide instructions of Government

"It is, hereby, ordered that whenever, any officer is allowed to forgo promotion he/she shall be posted only in non NCR districts and posting in Gurugram, Faridabad, Rohtak, Sonapat and Panipat shall be specifically banned and officer will only be considered for field posting in non NCR districts. Further deferment of promotion shall be only for one year and not beyond that period.

2. *Further when any officer forgoes his/her name shall not recommend for promotion for one year and the person promoted during this period shall rank senior to him.*

Dated Chandigarh sd/- Dr. Mahavir Singh
the 14 February, 2019 Principal Secretary to
Government Haryana Labour Department”

The petitioner has foregone his claim for promotion, therefore, he cannot seek posting in NCR region. The said condition imposed while accepting his request to defer his promotion cannot be

said to be illegal and arbitrary.

No ground for interference is made out.

Dismissed.

(AMIT RAWAL)
JUDGE

July 08, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No