

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 17531 of 2011
Decided on: 16.05.2019

Partap Singh Narwal

...Petitioner

Versus

State of Haryana & Ors.

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

**Present : Mr. Saurabh Goel, Advocate
for petitioner**

Mr. Pankaj Mulwani, DAG Haryana.

**Mr. S.S. Dalal, Advocate
for respondent No.3.**

**Mr. Shivam Grover, Advocate for
Mr. Arun Sharma, Advocate
for respondent No.5.**

ARUN MONGA, J.

1. Petitioner herein seeks issuance of appropriate writ directing respondent No.3 to give him benefit of promotion to the post of Assistant Manager w.e.f. 12.08.1988 (as against 24.11.1989 when he was promoted).

2. Succinctly, the case of the petitioner herein is that he joined the respondent department as Clerk under the Scheduled Castes category as on 08.10.1974. Therefore, the petitioner was entitled to the benefit of reservation for grant of promotion under SC Category. However, the said benefit was withdrawn vide instructions dated 09.02.1979, wherein Clause 1 (6) was inserted, the relevant whereof is extracted hereinbelow:-

*“1(6) In the case of posts to be filled up by way of
promotion the benefit of reservation should be given*

where the basis of promotion is seniority cum merit and the benefit of reservation should not be made available where promotion is to be given on the basis of seniority cum fitness.”

3. Learned counsel for petitioner submits that insertion of Clause 1(6) *ibid* was challenged before the Hon'ble Apex Court by way of Writ Petition No. 143 of 1998 and during pendency of the case before the Supreme Court, the above Clause 1(6) was deleted and the benefit of reservation was restored. While disposing of the petition on 03.09.1991, the Hon'ble Supreme Court observed as under:-

“The petition above mentioned being called on for hearing before this court on 3rd day of September 1991, upon perusing the record and hearing counsel for the appearing parties above mentioned, this court DOTH in disposing of the petition pass the following order-

The petitioners were not considered for promotion in view of the directions contained in para 1(6) of the Haryana Government's Circular dated 9.2.1979. The petitioners approached this Court by way of writ petition. During the pendency of writ petitions the Government has issued another order dated 11.8.1988 deleting para 1(6) of its order dated 9.2.1979 as a result of which now the petitioners are entitled to be considered for promotion with effect from 12.8.1988. The respondents are, therefore, directed to consider the petitioners case for promotion to the higher post in accordance with the Government order dated 11.8.1988.”

In view of the aforesaid, the petitioner was granted the benefit of promotion w.e.f. 24.11.1989 of his being a SC Category.

4. Learned counsel for the petitioner submits that petitioner

ought to have been considered for promotion w.e.f. 12.08.1988 i.e. the date from which Clause 1(6) of the instructions dated 09.02.1979 was deleted by respondent No.1.

5. I have heard the learned counsel for the parties and have gone through the pleadings.

6. I am in agreement with the argument of the learned counsel for the petitioner that the petitioner is entitled to be considered for promotion w.e.f. 12.08.1988 as observed by the Hon'ble Apex Court, while disposing of writ petition on 03.09.1991. Benefit of promotion had already been granted to the petitioner on 24.12.1989 and the rest of the exercise of the petitioner was for retrospective promotion i.e. w.e.f. 12.08.1988.

7. In the premise, writ petition is disposed of with a direction to respondent No.3 to consider case of the petitioner for promotion w.e.f. 12.08.1988. It is, however, made clear that the case of the petitioner shall be considered in accordance with law and if he is found entitled to the benefit, he will be given the benefit of promotion under reserved category and in that event, all consequential benefits arisen therefrom shall be released to him along with interest @ 6% per annum.

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

(ARUN MONGA)
JUDGE

May 16, 2019
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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |