

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10423-2015 (O&M)
Date of Decision:-28.02.2019.

Kishan Chand

.....Petitioner

Versus

Union of India thorough Secretary (Home), Ministry of Home Affairs, New Delhi
and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Ms. Anita Balyan, Advocate for the official respondents-
Union of India.

ARUN MONGA, J. (Oral)

1.) The present petition has been filed, *inter alia*, for issuance of a writ in the nature of *certiorari* to quash the Notification dated 7.11.2014 (Annexure P-4) passed by respondent No.3/Deputy Inspector General, ITBP. Thereby the claim of the petitioner for seniority protection w.e.f. 01.03.2001 instead of 30.07.2001 was declined.

2.) In the written statement filed by the respondents, the impugned Notification has been justified on the ground that the petitioner was promoted to the rank of Head Constable/GD w.e.f. 30.07.2001 vide order dated 31.07.2001 (Annexure R-1). Accordingly, on his promotion in the rank of Head Constable/GD, his seniority was fixed with effect from the date of promotion. The petitioner was later promoted as Assistant Sub-Inspector according to the said seniority.

3.) I have gone through the pleadings and heard the learned counsel for

4.) The learned counsel for the respondents/Union of India has defended the impugned Notification for the reasons stated in the written statement. She has also drawn my attention to the fact that the petitioner did not appear for the promotional course (Senior Cadre Course), of his own volition when he was nominated for the same. She contends that the Senior Cadre Course is essential for promotion to the higher rank.

5.) Learned counsel for the respondents has also contended that as far as the averment of the petitioner of being discriminated qua his colleagues who were given the benefit of seniority with effect from the date prior to the one assigned to the promotion of the petitioner, the same is also based on sound and just reasons. She contends that the colleagues of the petitioner have qualified the Senior Cadre Course within the given time frame corresponding to their batch, whereas, the petitioner did not qualify the same. Accordingly, the said colleagues of the petitioner were brought on the approved List-C and promoted to the rank of Head Constable/GD w.e.f. 01.03.2001 as reflected from order dated 01.03.2001 (Annexure R-2).

6.) I am in agreement with the contentions of the learned counsel for the respondents as noted above and, therefore, am of the opinion that no interference with the impugned order is warranted under Article 226 of the Constitution of India in the present proceedings.

7.) The writ petition is, accordingly, dismissed and the Notification dated 7.11.2014 (Annexure P-4) qua the petitioner is upheld.

(ARUN MONGA)
JUDGE

February 28, 2019.

sandeep

Whether speaking/reasoned:-

Whether Reportable:-

Yes / No

Yes / No.