

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

**CWP-17673-2019 (O&M)
Date of Decision:04.12.2019**

Jaspal Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. S.K. Arora, Advocate for the petitioner.

....

TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner is currently serving on the post of Head Draftsman under the Punjab Water Supply and Sewerage Board and is on extension as he has already attained the age of superannuation.

Instant writ petition has been filed seeking quashing of the order dated 13.06.2018 (Annexure P-7) vide which respondent No.3 was promoted to the post of Circle Head Draftsman. A writ of mandamus is also sought directing the respondent/authorities to consider and promote the petitioner against the post of Circle Head Draftsman w.e.f. 31.01.2016 with all consequential benefits.

Counsel submits that the post of Circle Head Draftsman had become available on 31.01.2016. However, on such date or soon thereafter, the post was not filled up. Respondent No.3 even though senior to the petitioner was not eligible to be promoted from the post of Head Draftsman to Circle Head Draftsman as per statutory Rules governing the service. Subsequently, the post has been filled up on 13.06.2018 by promoting respondent No.3 as in the interregnum, he had acquired the requisite eligibility. It is contended that under such circumstances, petitioner had a prior right for consideration for

promotion to the post as on the date of occurrence of the vacancy and since such consideration has been denied to him, promotion of private respondent be set aside and the petitioner be considered and promoted as Circle Head Draftsman w.e.f. 31.01.2016 with all consequential benefits.

Having heard counsel for the petitioner at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant writ petition and the same deserves to be dismissed at the very threshold.

As per pleadings on record, the vacancy for the Circle Head Draftsman had become available on 31.01.2016. At best the right that came to vest in the petitioner was a fair consideration for promotion to the post. Be that as it may, it would be the prerogative of the employer/respondent department to fill up a particular vacancy as and when the same arises. It is not the case projected on behalf of the petitioner that the vacancy pertaining to the post of Circle Head Draftsman that had arisen on 31.01.2016 was deliberately not filled up with the oblique motive that respondent No.3 in the meanwhile would acquire eligibility and be promoted and thereby defeat the rightful claim of the petitioner. Petitioner is also not alleging malafides against any senior functionary of the respondent/ Board that the post of Head Draftsman had not been filled up in January, 2016 on account of an oblique motive. Sans such ground it would be taken by this Court that the vacancy that arose on 31.01.2016 was not filled up on account of administrative exigencies

The vacancy in the cadre of Circle Head Draftsman was filled up by way of promoting respondent No.3 on 13.06.2018 vide Annexure P-7. Counsel concedes that respondent No.3 otherwise is senior to the petitioner in the cadre of Head Draftsman and that respondent No.3 was eligible to be

promoted to the post of Circle Head Draftsman on 13.06.2018.

In view of the reasons recorded above, the prayers raised in the instant petition cannot be accepted.

Writ petition is dismissed.

04.12.2019

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |