

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

**CWP-22661-2013
Date of decision-11.01.2019**

Ranjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. Alisha Arora, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

Prayer in the instant petition is for issuance of a writ of Mandamus, directing the respondent to promote the petitioner as Kanungo against 3% quota for physically challenged in terms of Punjab Government notification dated 05.07.2011 (Anneuxre P-3), from the date her batch-mates were promoted, with all consequential benefits.

It is contended that the petitioner was selected as Patwari on 30.04.2001 (Annexure P-1) against the quota of physically handicapped. She is the senior-most Patwari in the District Jalandhar and placed at serial No.270 of the seniority list (Annexure P-2) of Patwaris. The Government vide its notification dated 05.07.2011 (Annexure P-3), has decided to

provide 3% posts in Group A, B, C & D for physically challenged persons. Further, vide letter dated 23.09.2011 (Annexure P-4), it has been decided that roster points at 10, 40 and 70 are to be kept reserved in case of Group C and D employees. The petitioner moved representation dated 30.11.2011 (Annexure P-5), seeking promotion to the post of Kanungo, which was rejected on the ground that she was not entitled to promotion not having completed 10 years of service. The petitioner again moved representation dated 17.07.2012 (Annexure P-7) seeking the same relief as one Bhimsen and Gurdip Singh, Patwaris of Patiala District who were selected as Patwari on 20.08.2000 and completed training with the petitioner in 2001-2002 batch, were promoted on 19.12.2011. Thereafter, respondent No.4 sent Patwaris for refresher course for promotion of Kanungo. One Rajinder Kumar was sent for refresher course under handicapped quota, whereas, the claim of the petitioner was ignored. On her moving representation dated 18.12.2012 (Annexure P-9), she was sent for refresher course vide letter dated 04.01.2013 (Annexure P-10). Thereafter a legal notice dated 12.08.2013 (Annexure P-12), praying for promotion under handicapped quota was served but to no avail. Hence, the instant petition.

It is contended that the action of the respondents in not promoting the petitioner under the handicapped quota is illegal, arbitrary and mala fide and against provisions of The Persons of Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 as also the policy of the Punjab Government (Annexure P-3). The petitioner is entitled to promotion from the date, the batch-mate of the petitioner was

promoted.

On the other hand, learned State counsel refers to the Rule 8 of the Punjab Revenue Patwaris Class III, Service Rules, 1966 (in short, '1966 Rules'), according to which a candidate is appointed as Patwari only after passing the departmental examination and on successful completion of field training of six months. The petitioner was appointed as Patwari vide letter dated 31.03.2003. Thus, she was not eligible to be considered for promotion in the year 2011 having not completed the requisite experience of ten years. The petitioner became eligible for promotion only in the year 2013 and after due process, the petitioner was promoted to the post of Kanungo vide order dated 27.07.2015 against Roster Point No.270 reserved for handicapped quota.

Heard.

It is to be noticed that the petitioner has laid claim to the post of Kanungo on the basis of promotions made in the Districts of Patiala and Fatehgarh Sahib, whereas, the petitioner belongs to District Jalandhar. The cadre in question is a district cadre. The persons cited by the petitioner in the writ petition are not from the comparable cadre. In the District of Jalandhar, only the petitioner has been promoted and no person junior to the petitioner in the District has been promoted. Therefore, the Court does not find any substance in the assertion of the petitioner that she joined the services in the year 2001. Rule 8(1) of the 1966 Rules reads as under:-

“8. Qualifications for appointment-(1) No Patwari candidate shall be eligible for appointment to the Service

unless he qualified the Patwar examination after attending the Patwar School for a minimum period of one year, and after passing the examination undergoes such practical field training for a period of six months as may be specified by the collector.”

A perusal of the above rule makes it clear that the candidates remain trainee and acquire the status of employee only after passing the examination in terms of Rule 8 of the 1966 Rules.

In view of the above, this Court does not find any merit in the instant petition and the same is hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

11.01.2019
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No