

CWP No.15106 of 2017

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

CWP No.15106 of 2017

Date of decision:16.08.2019

Rajpal Singh

... Petitioner

Vs.

Haryana State Federation of Cooperative Sugar Mills Ltd. & others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sandeep Singal, Advocate
for the petitioner.

Mr. Harsh Aggarwal, Advocate
for the respondents.

AMIT RAWAL J. (Oral)

Claim of petitioner in present writ petition is for issuance of a writ in the nature of mandamus directing respondents no.2 and 3 to pay salary and allowances for the post of driver w.e.f. 19.09.2002 when he was given current duty charge.

It has been alleged that petitioner was initially appointed as unskilled mazdoor (seasonal) on 03.03.1998 in the Engineering Department on compassionate basis. He was confirmed on 27.02.1999. Since date of initial appointment, he was discharging duties of the post of driver and in this regard, reliance was laid upon the order dated 19.09.2002 (Annexure P-2). Vide letter dated 20.08.2016, Mill invited applications from eligible employees for promotion to the higher post and petitioner applied for the same but the same was rejected which was challenged by filing civil writ petition bearing No.24790 of 2016 and the same was disposed of vide order

dated 01.12.2016 directing the respondents to consider and decide the claim of petitioner. Thereafter, in pursuance to the aforementioned order, respondents considered the claim of petitioner and rejected the same on the ground that no vacant post of driver is available in the Mill.

Contention of petitioner is that service of petitioner is governed by Service Rules for the Employees of the Cooperative Sugar Mills in the State of Haryana. As per Note VI of Rules, it is clear that the post shall be filled up only by promotion and if no candidate is found suitable, only then process for direct recruitment would be initiated. Petitioner is also holding valid driving license. Since case of petitioner was not looked into, in this regard, sent a legal notice but no action has been taken so far. It is settled law that a person who is discharging the role of driver or given current duty charge, is entitled to get full salary and allowances.

Written statement has been filed and supported the impugned order on the premise that there were four posts of driver which fell vacant and petitioner was never given any current duty charge, thus, not entitled to get salary and allowances for the post of driver.

I have heard learned counsel for the parties, appraised the paper book and of the view that it is not a fit case for issuing directions to the respondents as disputed question of facts have been raised by the petitioner and respondents qua contents of letter dated 19.09.2002 (Annexure P-2) which are extracted herein below:-

“To

*Hon'ble Cane Manager,
The Haryana Co-operative Sugar Mills,*

Rohtak.

It is submitted that the bridges have to fit at the external centres. So you are requested that permission may be granted to send Rajpal Tractor Driver.

You shall be highly obliged.

Sewa Ram Bridge Fitter

Dated 19.9.2002

Sd/-

Mr. Raj Pal Driver

19.09.2002.”

Though the petitioner is asserting that he has discharged the duties of driver but no photocopy of license has been attached with the petition nor the assertion qua four posts have been controverted by filing replication. It is a matter of record that petitioner was not able to place on record any relevant material to controvert the stand of the respondents.

In view of above, writ petition is dismissed with liberty to the petitioner to file a civil suit but not in the manner and mode as indicated above.

(AMIT RAWAL)
JUDGE

August 16, 2019
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No