

Sr. No.210

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

**CWP No.20747 of 2015 (O&M)
Date of Decision: 16.10.2019**

Hardev Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. G.S.Bal, Senior Advocate with
Ms. Gursimran Kaur, Advocate,
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

Mr. R.S.Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate,
for respondent No.2.

ARUN MONGA, J.(ORAL)

Inter alia, issuance of a writ in the nature of certiorari has been sought to quash order dated 26.11.2014 (Annexure P-13), whereby claim of the petitioner, who at the relevant time was serving as General Manager of respondent No.2-Punjab Urban Development Authority (PUDA) for promotion as Additional Chief Administrator was declined ostensibly on the ground that he was not eligible for the same, for the reasons stated in the impugned order.

2. Succinct narrative of the facts first.

3. The petitioner was originally employed to Punjab State Industrial Development Corporation and was serving as Assistant

General Manager when his services were deputed to the respondent-PUDA as General Manager vide order dated 30.04.1996 (Annexure P-14). Later on, vide order dated 19.06.2001 (Annexure P-1), he was permanently absorbed as General Manager though in the pay scale of Deputy General Manager subject to the following conditions:-

“1. On his absorption only the pay which he is already drawing in the PSIDC will be protected;

2. he will be allowed the scale of General Manager in PUDA as and when his junior in the PSIDC is promoted as General Manager.”

4. As regards his eligibility to seek promotion as Additional Chief Administrator, the same is prescribed in Schedule-III of Punjab Urban Planning Development Authority (Employees Service) Regulations, 1999 which envisages that a General Manager of PUDA who is an MBA with Law Degree and has 05 years of experience would be considered for promotion to the said post. The petitioner, though had been officiating as General Manager right from his induction into the PUDA, but was formally absorbed as General Manager on 19.06.2001 and accordingly, after 5 years with effect from 19.06.2001, he would have been eligible to be considered for promotion as Additional Chief Administrator. Regardless, the petitioner submitted his first representation dated 16.07.2001 (Annexure P-2) seeking promotion on the premise that though his formal absorption was on 19.06.2001 but he had already been officiating as General Manager for more than 5 years after reckoned from the original

date of induction into PUDA i.e. 30.04.1996, therefore, sought promotion.

5. Without going into the veracity of his claim on the basis of a representation dated 16.07.2001 (Annexure P-2), I am of the view that once he was absorbed as General Manager in PUDA vide order dated 19.06.2001, he was definitely eligible to be considered for promotion after 5 years of same i.e. on 20.06.2006. The specious plea of declining him the benefit of promotion on the ground that he has been working and given the pay scale of Deputy General Manager, is not sustainable in law. It is the rank which is relevant for the purposes of considering a General Manager for promotion to the post of Additional Chief Administrator and not the pay scale, as is clear from eligibility conditions which does not prescribe any pay scale.

6. As far as the competency of the petitioner is concerned, this Court is not inclined to go into the same but at the same time may hasten to add that the competent authority will take into consideration the fact that the petitioner had served as Additional Chief Administrator, though in officiating capacity, with effect from 15.02.2005 until the date of his retirement i.e. 30.09.2009.

7. Per contra, learned Senior counsel appearing for PUDA submits that petitioner is dis-entitled to seek the relief of promotion as he approached this Court only on the eve of his retirement.

8. I find that the argument of learned Senior counsel is insipid, in view of the fact that petitioner had already been serving

for more than 2½ years as Additional Chief Administrator. No reasons have been shown to deny the legitimate claim of the petitioner. It is only when it became clear to the petitioner that he is nearing retirement and yet formal order has not been passed he knocked at the door of the Court. It is irrelevant whether he approached on the eve of his retirement or subsequent thereto.

9. In view of my discussion above and reasons contained therein, impugned order dated 26.11.2014 (Annexure P-13) is set aside. Direction is given to the respondents to consider the claim of the petitioner in the light of observations made above, for promotion as Additional Chief Administrator on completion of 5 years' service as a General Manager with effect from 19.06.2001 i.e. from 19.06.2006 and to pass appropriate orders, in accordance with law.

10. Allowed in the aforesaid terms.

(ARUN MONGA)
JUDGE

16.10.2019

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No