

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19259 of 2019

DATE OF DECISION:09.09.2019

Khem Raj

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Kiranjeet Kaur, Advocate for
Mr. Yaseen Sethi, Advocate
for the petitioner.

HARSIMRAN SINGH SETHI, J. (ORAL)

The grievance which is being raised in the present writ petition is that before the petitioner attained the age of superannuation on 30.11.2013, his case was sent to the competent authority for making promotion to the post of leading Fireman but no promotion was effected by the respondents upto the date when the petitioner attained the age of superannuation. After attaining the age of superannuation, the petitioner was granted extension for a period of two years w.e.f. 01.12.2013 till 30.11.2015. When the petitioner was about to retire from service after availing the benefit of extension, two persons namely, Sh. Raj Kumar and Sh. Surinder Kumar, Fireman were promoted to the post of leading Fireman in November, 2015. The said promotion was done keeping in view the recommendation made by the Nagar Council, Fazilka vide their resolution No.60 dated

08.07.2015.

The grievance of the petitioner is that the petitioner was senior to Sh. Raj Kumar, Fireman as well as Sh. Surinder Kumar, Fireman and, therefore, had a prior right of promotion to the post of leading Fireman as the petitioner was in service on the day when the two juniors, details of whom have been mentioned, were actually promoted as leading Fireman.

I have heard the counsel for the petitioner.

From 01.12.2013, the petitioner was on extension. Extension has been granted by the State of Punjab on various conditions. By the notification dated 30.10.2015, notification dated 08.10.2012 was clarified/amended to say that the employees who have been granted extension will not get promotion or even the increment while on extension. The relevant condition of the said notification dated 30.10.2015 is as under:

(b) Notwithstanding anything contained contrary in these rules or any other rules for the time being in force, during the extended period of Service under clause (a), the Government employee shall be entitled to pay equal to the pay last drawn by him, on attaining the age of fifty-eight years or sixty years including an employee, who is already on extension, as the case may be:

Provided that the Government employee, whose Service is extended, shall not be entitled to,-

- (i) promotion;
- (ii) the benefit of Assured Career Progression;
- (iii) an annual increment; and
- (iv) any revision of pay made by the State Government:

Provided further that the pay of the Government employee already on extension, who has been given promotion or the benefit of Assured Career Progression during the extended period till the issue of this notification, shall be protected and he shall be given the retiral benefits on the basis of his protected pay."

Counsel for the petitioner is unable to distinguish the case of the petitioner from the said notification and is unable to project as to how the petitioner was entitled for promotion during the period when he was on extension from 01.12.2013 till 30.11.2015. The so called juniors have only been promoted on 06.11.2015, who were in service and not on extension. Therefore, the claim of the petitioner for promotion on the ground that juniors were promoted when he was in service is complete misreading of the conditions. The petitioner was granted extension in service w.e.f. 01.12.2013 till 30.11.2015.

As the petitioner was not entitled for promotion during the period of extension, no fault can be found with the action of the respondents in promoting the persons, who were in service though junior to the petitioner. Therefore, the claim of the petitioner for promotion to the post of leading Fireman is not made out and the writ petition is consequently dismissed.

September 09, 2019

jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No