

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

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**CWP No. 20127 of 2017 (O&M)
Date of Decision : 03.12.2019**

Darshan Singh

... Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. G.P.S. Randhawa, Advocate for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab

SUVIR SEHGAL, J.

The instant petition has been filed seeking a direction to the respondents to promote the petitioner to the rank of Inspector at par with the officials named in the promotion order dated 30.04.2016 (Annexure P-4).

In brief, the facts are that the petitioner was enlisted as a Constable in the Punjab Police Department on 14.07.1981. He was promoted to the rank of Sub-Inspector on 01.04.2009. He was found eligible and his name was further recommended for promotion list 'F' (Executive) vide memo No. 32001/CRC dated 22.11.2015 (Annexure P-1). In the meantime, due to certain lapse on his part, a departmental inquiry was initiated against him vide order dated 06.03.2015 wherein he was found guilty of the allegations levelled against him. He was issued a show cause notice on 23.12.2015 and after considering his reply,

respondent No.5 ordered forfeiture of his one year service vide order dated 02.02.2016. His appeal against the said order was accepted by respondent No.4 vide order dated 26.03.2016 (Annexure P-3) and order dated 02.02.2016 was set aside and the petitioner was held entitled for the allowances etc. Petitioner superannuated from service on 31.03.2016. By order dated 30.04.2016 (Annexure P-4), the names of eligible Sub-Inspectors were brought on promotion list 'F' and they were approved for promotion as Inspector of Police. As the petitioner was not granted extension in service after superannuation, he filed CWP No.12097 of 2016, whereupon the respondents through order dated 04.07.2016 granted him one year's extension in service till 31.03.2017. He was granted another extension till 31.03.2018 and he retired from service after completion of extension period, during the pendency of the present writ petition. The petitioner has claimed parity with the officials named in the promotion order dated 30.04.2016 (Annexure P-4) and even served a legal notice dated 05.06.2017 (Annexure P-5) upon the respondents claiming promotion.

Upon notice being issued, respondents No.1 to 5 have filed their reply and resisted the claim of the petitioner by placing reliance upon the instructions dated 30.10.2015 (Annexure R-1/T).

Counsel for the parties have been heard.

There is no dispute about the fact that the petitioner had retired from service on 31.03.2016 and thereafter, he had been granted extension in service. His appeal against the forfeiture order was allowed on 26.03.2016 (Annexure P-3). Till his retirement on 31.03.2016, no promotion had taken place. It was only on 30.04.2016 that promotion

order (Annexure P-4) was passed whereby eligible Sub-Inspectors were approved for promotion as Inspector.

The petitioner had been granted extension in pursuance to the instructions issued by the Government of Punjab which were clarified by the respondents vide instructions No.22/2/2012-3FP2/257 dated 30.10.2015. In the clarificatory instructions it was laid down as under:-

"(c) In accordance with amendment provisions of Punjab Civil Services Rules Volume-I, Part I, and Punjab Civil Services Rules Volume II, those employees who will submit their option for extension up to 2 years (year wise) after retirement from service on attaining the age of 58/60 years in service, they will not be given the following benefits:-

(I)Promotion

(II) Benefit of ACP

(III)Annual Grade increment and

(IV)Pay scales amended by the Govt.

These conditions will be applied in Toto to the present employees on extension of 1st year or 2nd year."

From the above, it is therefore, clear that the benefit of extension in service granted to the petitioner, was subject to certain conditions. One of the conditions which has been imposed vide instructions dated 30.10.2015 was that no promotion will be granted to the employees, who had been given extension in service. From the factual position noticed above, it is clear that the promotion order dated 30.04.2015 (Annexure P-4) had been passed by the respondents during the extended period of service of the petitioner. Therefore, the petitioner has no right to be considered for promotion during the time he was enjoying the extension in service. His claim is, therefore, without any

merit and the writ petition deserves to be dismissed.

Ordered accordingly.

03.12.2019
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No