

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

CWP No. 22991-2017

Date of decision:- 23.01.2019

Sudhir Katyal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Deepak Girotra, Advocate
for the petitioner

Mr. Kiran Pal Singh, AAG, Haryana

Mr. Nilesh Bhardwaj, Advocate
for respondent Nos. 2 to 5.

RITU BAHRI J.

The present petition is for quashing of order dated 24.11.2016 (P-10) whereby respondent No. 6 was promoted to the post of Assistant Registrar and the impugned letter dated 18.05.2017 (P-12) whereby request of the petitioner for promotion to the post of Assistant Registrar has been rejected.

Brief facts of the case are that respondent No. 2 invited applications for the post of Superintendent Estate vide advertisement No. 13/2010 (P-2) and the qualification was graduation with minimum 15 years of Supervisory/Management Experience in any Public Sector/Private Ltd Company of which at least three years should be with any reputed Builder Pvt Ltd having turnover of Rs.200 crore annually. The petitioner applied against the said post and was called for interview vide letter dated 09.12.2010 (P-3). The petitioner was offered appointment letter dated

17.12.2010 (P-4) to the post of Supdt (Estate). The petitioner joined on 20.12.2010. Thereafter, the case of the petitioner for promotion to the post of Assistant Administrative Officer by way of promotion in PGIMS, Rohtak was initiated by respondent Nos. 2 to 5. The case of the petitioner along with respondent No. 6 was placed before the Department promotion committee but both were not promoted as they have not submitted the minimum 03 months computer certificate course. The petitioner gave representation dated 16.05.2016 (P-7) for promotion but without deciding the representation of the petitioner, the case of respondent No. 6 was put up for promotion on 07.10.2016 (P-8) which was approved by respondent. The petitioner again moved representation dated 19.10.2016 (P-9) for promotion being the senior most superintendent. However, respondent No. 2 passed office order dated 24.11.2016 (P-10) for promotion of respondent No. 6. Thereafter, the representation dated 11.01.2017 (P-13) of the petitioner was rejected, as per information received by the petitioner vide letter dated 18.05.2017 (P-12) stating therein that promotion to the post of Assistant Registrar cannot be acceded to as the qualification for the post of Supdt and Supdt (Estate) are different and the post of Supdt is feeder cadre whereas the post of Supdt (Estate) is Ex Cadre post.

On notice of the petition, a written statement has been filed on behalf of respondent Nos. 2 to 5 taking a stand that the post of Superintendent (Estate) was created for specific purpose to look after the work of Estate of the University and not created in a Ministerial cadre in which the post of Superintendent is filled up by promotion from amongst the Deputy Superintendent/Legal Assistants/Assistants/Accountants, as per

of Superintendent (Estate) manned by petitioner is an ex-cadre post as the post of Superintendent (Estate) was advertised and filled up by direct recruitment by the University of Health Sciences, Rohtak with a particular qualification and experience of specialized nature to look after the affairs of Estate Branch only whereas the other posts of Superintendents in the University are being up cent percent by way of promotion from amongst the Deputy Superintendent/Legal Assistants/Assistants/Accountants having minimum experience of 05 years. This fact was in the knowledge of the petitioner and has been reflected in his representation dated 17.01.2014 (R-2/1) for change of nomenclature of the post of Superintendent (Estate) to Estate Manager.

Learned counsel for the respondent has argued that the post of Superintendent is filled up by 100% promotion amongst Deputy Superintendent/Legal Assistants/Assistants/Accountants on the basis of seniority cum merit whereas the post of Superintendent (Estate) is filled up through direct recruitment having different qualification. Further the post of Superintendent (Estate) was sanctioned by the Government vide memo dated 19.10.2010 as an ex cadre post. Had both posts been same, then there would have been no need for creating the separate post of Superintendent (Estate). The post of Superintendent (Estate) cannot be clubbed with feeder cadre post for promotion.

Heard learned counsel for the parties at length.

As per Schedule 1 of Chapter III of conditions of service for non-teaching (Non Technical), University Employees, the pay scale for the post of Superintendent and Superintendent Estate are different. The post of

SP and the post of Superintendent Estate carries the scale of Rs.9300-34800+4200 GP (Revised).

Keeping in view the fact that there was different mode of appointment for the ministerial cadre post of Superintendent as per provision of sub-rule (xi) (a) and (b) of Rule 7 of Chapter II and Schedule II of Chapter III of the Conditions of service for non-teaching (Non Technical), University Employees, qualification, experience and nature of job, it will not be justified to compare the post of Superintendent (Estate) with other posts of Superintendent in the University as equivalent for the purpose of promotion to higher post. As per seniority list dated 15.07.1999, respondent No. 6 is senior most Superintendent and has rightly been promoted as Assistant Registrar from the post of Superintendent and the petitioner was appointed against the ex cadre post. The post of Superintendent is filled up by 100% promotion amongst the Deputy Superintendent/Legal Assistants/Assistants/Accountants on the basis of seniority cum merit whereas the post of Superintendent Estate is filled up through direct recruitment.

Dismissed.

23.01.2019

G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No