

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

Date of decision : 14.05.2019

1. CWP-7271-2014 (O&M)

Daler Singh

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

2. CWP-2643-2016 (O&M)

Lakhvir Singh

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. P.S. Thiara, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

The above-noticed writ petitions are being disposed of by this single judgment as common questions of law and facts are involved therein.

However, the facts are being derived from CWP-7271-2014, for brevity.

The petitioner seeks a direction to the respondents to promote him as District Veterinary Officer w.e.f. February, 2012 and also to pay one increment in lieu of said promotion.

It is contended that the petitioner joined the services with the respondent-Department on 15.12.1973. During his service period, the petitioner did not get any promotion and only the nomenclature of the post was changed from time to time viz. from Live Stock Assistant and Veterinary Compounder to Veterinary Pharmacist and again as Veterinary Inspector. Meanwhile, the State Government vide letter dated 15.12.2011 (Annexure P-1) decided to upgrade 22 posts of Veterinary Inspectors as District Veterinary Inspectors in the pay band of ₹10300 – 34800 with grade pay of ₹4800/-. It was also reflected that the scales of pay of the Veterinary Inspectors shall stand revised w.e.f. 01.12.2011 and that the orders shall be effected from 01.12.2011. The grouse of the petitioner is that the respondents did not give effect to the letter (Annexure P-1) and the pay scales of the petitioner was not revised and the petitioner retired from service as such w.e.f. 31.03.2012. Thereafter, the benefit in terms of letter (Annexure P-1) was given to the employees of the Department, most of them being junior to the petitioner, vide letter dated 20.12.2012 (Annexure P-3). Feeling aggrieved, the petitioner approached this Court by filing CWP-12162-2013 before this Court. The writ petition was disposed of vide order dated 29.05.2013 (Annexure P-4), with a direction to the respondents to decide the representation of the petitioner within three months. Consequently, respondent No.2 vide order dated 23.10.2013 (Annexure P-5), rejected the claim of the petitioner on the ground that the petitioner was at serial No.24 of the seniority list, whereas, only 22 persons were to be given the higher post.

It is submitted that some other similarly situated persons who had approached this Court seeking similar directions, were promoted as District Veterinary Inspectors vide order dated 23.10.2013 (Annexure P-6) from back-date as they had already retired from service. The petitioner was placed at seniority No.24. However, consequent upon the retirement of Ashok Kumar (seniority No.3) on 01.10.2011 and Parshotam Lal (seniority No.23) on 31.12.2011, the petitioner's seniority came at serial No.22. Even otherwise, before the retirement of the petitioner, eight persons had already retired from service. Therefore, he was entitled to promotion to the post of District Veterinary Inspector.

On the other hand, learned State counsel submits that the case of the petitioner was considered and it was found that as on 01.12.2011 i.e. the date when notification Annexure P-1 was to be made applicable, he did not fall in the top 22 Veterinary Inspectors.

Heard.

The claim of the petitioner flows from notification dated 15.12.2011 (Annexure P-1), whereby, 22 posts of Veterinary Inspectors was upgraded as District Veterinary Inspectors. It was specifically mentioned in the notification that the orders shall be effected from 01.12.2011. The case of the petitioner has been rejected on the wrong notion that as on 15.12.2011, the petitioner did not make it in the list of 22 senior-most Veterinary Inspectors. The process of promotion is a continuous process. Even if the petitioner was not among the senior-most 22 Veterinary Inspectors as on the date of notification, however, with the retirement of his

seniors, he had earned his place in the top 22 Veterinary Inspectors and had become eligible for the benefit in terms of notification Annexure P-1.

As per record, the petitioner was initially placed at serial No.24 in the seniority list. He retired from service on 31.03.2012. Before his retirement, the following employees already stood retired from service:-

No. in the seniority list	Name	Date of Retirement
1	Zora Singh	22.02.2012
3	Ashok Kumar	31.10.2011
4	Roop Singh	31.01.2012
13	Surjit Singh	28.02.2012
14	Bahadur Singh	31.01.2012
17	Bhajan Singh	31.01.2012
18	Surjit Singh	28.02.2012
23	Parshotam Lal	31.12.2011

Thus, the above named eight persons retired prior to the retirement of the petitioner and as on 01.02.2012, the petitioner's seniority was at Sr. No.19 (after retirement of persons at Sr. Nos.3, 4, 14 and 17), whereas, as on 28.02.2013, the petitioner stood at seniority No.16 (after retirement of persons at Sr. No.1, 13 and 14).

In view of the above, the instant petitions are allowed; impugned order dated 23.10.2013 is hereby quashed; and the petitioners are ordered to placed as District Veterinary Inspector w.e.f. the date when their seniority reached at Sr. No.22 of the seniority list, consequent upon retirement of one or more of their senior colleagues. Their pay and pension be re-fixed accordingly. The consequential benefits be passed on to the petitioners within a period of three months from the date of receipt of a

CWP-7271-2014
CWP-2643-2016

certified copy of this judgment.

Allowed.

14.05.2019
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No