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

**CWP-25698-2019 (O&M)
Date of decision : 12.09.2019**

Satish Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Amit Jhanji, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

Petitioner has, in present writ petition, sought multi fold reliefs; quashing the impugned memorandum dated 16.01.2018 (Annexure P-3), issuing charge-sheet under Rule 7 of the Haryana Civil Services (Punishment and Appeals) Rules, 1987; quashing impugned order dated 29.08.2019 (Annexure P-15), whereby respondent Nos.3 to 7 have been promoted to the post of Superintendent/Deputy Superintendent; quashing impugned order dated 20.08.2019 (Annexure P-13), whereby respondent No.8 has been re-employed by respondent No.1 to the post of Assistant Director (Elections); mandamus for directing the respondents to consider the case of petitioner for promotion to the post of Superintendent on regular basis w.e.f. 25.07.2017; quashing impugned charge-sheet dated 16.01.2018 (Annexure P-3), orders dated 20.08.2019 & 29.08.2019 (Annexures P-13 and P-18).

Mr. Amit Jhanji, learned counsel appearing on behalf of the

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petitioner submitted that petitioner, who was initially appointed as Peon in Urban Local Bodies Department, Haryana, was promoted to the post of Assistant vide order dated 18.12.2003. Case of the petitioner for promotion to the post of Superintendent was recommended by the Competent Authority on 10.11.2017. However, prior to that, petitioner was already promoted to the post of Superintendent on temporary basis i.e. for a period of four months, in view of Rule 61 of the Haryana Civil Services (General Rules) 2016 (in short 'the 2016 Rules'). Instead of adhering to the aforesaid recommendation, petitioner was served with charge-sheet dated 16.01.2018 under Rule 7 of the Haryana Civil Services (Punishment and Appeals) Rules 1987 (in short 'the 1987 Rules'), which has already been repealed in 2016. Vide impugned order dated 15.02.2018, petitioner was reverted to the post of Assistant. Respondents/Department have promoted respondent Nos.3 to 7 to the post of Superintendent, whereas petitioner was much senior to them, thus, the Department failed to take action on the recommendation dated 10.11.2017. In this regard, attention of this Court was drawn to the proceedings of the Enquiry Officer dated 27.11.2018 (Annexure P-10), which reveal that the Department has not been pursuing with the enquiry proceedings as the Enquiry Officer is deprived of the relevant documents, much less, list of reliance. Enquiry has not proceeded any further. Petitioner's grievance, de hors of fact that enquiry is under the 1987 Rules, cannot come to any impediment for considering him for promotion to the post of Superintendent.

I am afraid the aforementioned argument is not sustainable, if at all, petitioner has any grievance, he could have approached to the Competent Authority or before this Court, before serving charge-sheet

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under Old Rules. The factum of charge-sheet having been served under the 1987 Rules, can be a matter of consideration, at the relevant point of time, before the Competent Authority, but not at this stage. Promotion order of private respondents cannot be stayed as they were next in line for promotion to the post of Superintendent, after consideration of their service records. Charge-sheet is pending since 2017, accordingly, I deem it appropriate to dispose of the writ petition by directing the Enquiry Officer to expedite the enquiry proceedings and in case, petitioner is exonerated, necessary action with regard to promotion of petitioner, be taken in accordance with law.

Let this exercise be done within a period of four months from the date of receipt of certified copy of this order.

With the aforesaid observations, present writ petition stands disposed of.

12.09.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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