

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

L.P.A. No.473 of 2014(O&M) in
Civil Writ Petition No.540 of 2009
Date of decision: August 16, 2019

State of Haryana and another ...Appellants

Versus

Birender Singh Laura and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Gagandeep Singh Wasu, Addl. A. G. Haryana.

Mr.D.S.Rawat, Advocate for respondent No.2.

HARINDER SINGH SIDHU, J.

1. This Letters Patent Appeal has been filed against the judgment dated 07.10.2013 in CWP No.540 of 2009 'Birender Singh Laura and others vs. State of Haryana and others' whereby the writ petition filed by respondents No.1 to 3 was disposed of with a direction that the cases of promotion of the said respondents be finalized within 30 days and they be promoted accordingly with all consequential benefits flowing therefrom.

2. In the writ petition filed by them, respondents No.1 to 3 namely Birender Singh Laura, Kalpana Singh and Lal Chand Ranga who were working on the post of Deputy Director (Animal Husbandry), Haryana had prayed for directions to consider and promote them to the post of Joint Director, Animal Husbandry in pursuance to the recommendations/ approval dated 09.01.2008/11.01.2008 which had been kept in abeyance allegedly due to mala fide reasons.

3. Ld. Single Judge noticed that as per the facts disclosed their cases for promotion to the post of Joint Director, Animal Husbandry had been considered and recommended by the Departmental Promotion Committee (DPC) which met on 10.01.2008 but they were not offered promotions as they had been issued show cause notices for termination of their services on the ground that their very appointment as Deputy Directors was contrary to the relevant statutory rules. They were also ignored in all the subsequent promotions made from amongst their juniors after 2008 by the Departmental Promotion Committee but all such promotions had been made subject to the final outcome of their writ petition i.e., CWP No.540 of 2009.

4. Similar show cause notice for termination of appointment as Deputy Director (Animal Husbandry) had been issued to one Dr. Lal Chand Ranga. He filed CWP No.21576 of 2008 impugning the show cause notice. In that writ petition a statement was made on behalf of the State of Haryana that the show cause notice issued to him and to respondents No.1 to 3 had been withdrawn. In view of the statement that writ petition was disposed of as infructuous.

5. With the withdrawal of the show cause notices the impediment in the promotion of respondent Nos.1 to 3 ceased to exist. The Ld. Single Judge disposed of the writ petition with a direction to the Appellants herein to give effect to the recommendations of the Departmental Promotion Committee dated 10.01.2008 after seeking the approval of the Chief Minister, Haryana. The exercise was directed to be completed within 30 days. Respondent Nos.1 to 3 were held entitled to promotion to the rank of

Joint Director from the date of meeting of the DPC i.e. 10.01.2008 with reference to the dates of occurrence of vacancies prior thereto but with effect from the date, the first junior was promoted. They were directed to be given all consequential benefits flowing therefrom as they were wrongly ignored for promotion for an impediment which was later removed by the Government on its own.

6. Review Application No.488 of 2013 filed by the appellants was dismissed on 03.02.2014.

7. Ld. Counsel for the appellant has contended that in fact no DPC as recorded in the judgment under appeal was held on 10.01.2008 and also that no junior of respondents was promoted between 10.01.2008 and the date of the judgment i.e. 07.10.2013.

8. An additional affidavit dated 21.04.2014 of Dr. R.P. Chander, Additional Chief Secretary Haryana, Animal Husbandry & Dairying Department has been filed in which while affirming that no person junior to respondents No.1 to 3 in the cadre of Deputy Director had been promoted to the post of Joint Director prior to the judgment dated 07.10.2013, it has been stated that one person junior to them i.e. Dr. Sadhu Ram Sharma, Deputy Director was promoted to the post of Joint Director vide order dated 25.10.2013. The affidavit also states that respondent Nos.1 to 3 have also been promoted to the post of Joint Director vide orders dated 20.02.2014 and have been assigned seniority above Dr. Sadhu Ram Sharma.

9. The aforesaid contentions or factual position does not warrant interference with the impugned judgment.

10. The memo dated 10.01.2008 (Annexure P-10) is a proposal for

promotion of respondents No.1 to 3 to the post of Joint Director. The proposal was received from the Director General, Animal Husbandry and Dairying. It records that the service record of respondents No.1 to 3 has been appraised. They have been found fit for promotion. The memo has been signed and approved by the Secretary Animal Husbandry. Only the approval of the Minister/Chief Minister, Haryana were awaited. The approval obviously was not sought because of the pendency of the show cause notices against them.

11. In the light of the aforesaid we find no infirmity in the order of the Ld. Single Judge directing that the recommendations in the proposal dated 10.01.2008 for the promotion of respondent Nos.1 to 3 be given effect to after seeking approval of the Chief Minister and the further direction that they would be entitled to promotion to the rank of Joint Director from the date of meeting of the DPC i.e. 10.01.2008 with reference to the dates of occurrence of vacancies prior thereto but with effect from the date the first junior was promoted with all consequential benefits.

12. Accordingly there is no merit in the appeal and same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

August 16, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No