

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

LPA No.2516 of 2016 (O&M)
Reserved on : July 02, 2019
Date of Decision: July 31, 2019

Daljit Singh Bhullar

...Appellant

Versus

State of Punjab and others

...Respondent

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

Present: Mr. B.S.Khehar, Advocate for the appellant.

Mr.Ayush Sarna, Assistant Advocate General, Punjab
for respondents No.1 to 5.

Mr.Jaivir Yadav, Advocate for respondent No.6.

Mr.K.S.Dadwal, Advocate for respondent Nos.8 and 9.

HARINDER SINGH SIDHU, J.

1. This Letters Patent Appeal has been filed against judgment dated 18.10.2016 of the Ld. Single Judge whereby CWP No.7386 of 2015 filed by the appellant Daljeet Singh Bhullar has been dismissed.

2. The appellant had filed the writ petition for setting aside the order dated 18.03.2015 (Annexure P-27) passed by respondent No.1, whereby the benefit of seniority on notional basis on the post of Chief Inspector granted to him vide order dated 13.1.2015 was withdrawn. He had further prayed for directions to the respondents to fix his seniority on the post of Chief Inspector w.e.f. 03.03.1982 as was done in the case of a similarly situated employee namely Rachhpal Singh.

3. The father of the appellant Darshan Singh who was working as

Inspector with the Punjab Roadways died on 16.03.1971 while in service. At that time, the appellant was aged 13 years and hence not eligible for a government job. When he attained the age of 23 years he submitted an application to respondent No.2-Director State Transport for appointment on compassionate basis. Vide order dated 25.02.1982 he was appointed as Inspector on compassionate grounds w.e.f. 03.03.1982. He joined service as Inspector under protest as he claimed that he ought to have been appointed as Chief Inspector for which post he was fully qualified.

4. After joining as Inspector he earned promotions to the post of Chief Inspector and Traffic Manager.

5. As his application for appointment as Chief Inspector was not considered, he filed Civil Suit for declaration that he was entitled to be appointed as Chief Inspector from the date of his initial appointment. The suit was dismissed by the Ld. Additional Civil Judge, Moga on 20.08.1988. He filed an appeal before the Additional Sessions Judge, Moga. The appeal was dismissed vide order dated 15.10.1999..However, as regards his claim for parity with Rachhpal Singh the plaintiff was given liberty to approach the respondents.

6. Thereafter appellant filed appeal before respondent No.1-Secretary, Department of Transport, Punjab claiming the post of Chief Inspector on parity with a Rachhpal Singh. Vide order dated 18.05.2011 his appeal was accepted. He was given the benefit of seniority on the post of Chief Inspector w.e.f. 03.03.1982. However vide orders dated 13.06.2011 the order dated 18.05.2011 granting him the benefit of seniority on the post of Chief Inspector was cancelled.

The appellant yet again submitted a representation dated

17.06.2014 to the Hon'ble Transport Minister, Punjab requesting that he be given seniority as Chief Inspector w.e.f. the date of appointment. Vide order dated 07.01.2015, passed by respondent No.5 the appellant was given benefit of seniority on the post of Chief Inspector notionally w.e.f. the date of his appointment i.e. 03.03.1982. It was clarified that the appellant would not be given any financial benefit. This order was subsequently withdrawn on 18.03.2015.

8. Aggrieved the appellant filed the Writ Petition which has been dismissed vide the impugned order.

9. The contention of the appellant before the Ld. Single Judge was that at the time of his initial appointment he was liable to have been appointed as Chief Inspector as he fulfilled all the qualifications for the said post and some posts of Chief Inspector were also lying vacant. He was wrongly appointed as Inspector. Rachhpal Singh who like the appellant was initially appointed as Inspector on compassionate grounds was subsequently appointed as Chief Inspector from the date of his initial appointment as per the directions issued by this Court in CWP-16853-1997 against which SLP No.14623 of 1998 was dismissed. The case of the appellant being similar he is also entitled to similar relief.

10. The learned Single Judge dismissed his petition holding that the object of compassionate appointment is only to mitigate the immediate financial crisis to the dependents of an employee who dies while in service. Once the appointment has been made, the object of compassionate appointment stands fulfilled. There is no right to claim appointment on a higher post. Ld. Single Judge relied on various judgements of Supreme

Court where the objective and purpose of compassionate appointment has

been spelt out. Regarding the case of Rachhpal Singh it was observed that a wrong precedent cannot be relied on to claim parity. Moreover the suit and appeal filed by the appellant had been dismissed.

11. Sh. B.S. Khehar has pressed the same grounds in appeal. He contended that as the appellant was fully qualified for the post of Chief Inspector and some posts were lying vacant he ought to have been appointed as Chief Inspector instead of as Inspector. Secondly his case is similar to that of Rachhpal Singh and he is entitled to the same relief.

12. It is not open to the appellant to urge the first ground as his suit and appeal claiming the same relief has been dismissed. The order has attained finality. The appellant was only given liberty to approach the respondents with regard to his claim for parity with Rachhpal Singh.

13. The reliance by the appellant on the case of Rachhpal Singh (supra) is also unfounded. Rachhpal Singh's father died 17.1.1988. He was offered the post of Inspector on 6.3.1990. He joined as Inspector on 9.3.1990 under protect. He filed civil suit claiming appointment as Chief Inspector. The suit was decreed in his favour vide judgment and decree dated 19.10.1993 to the extent that the plaintiff is entitled to be considered for appointment as Chief Inspector. The Punjab Roadways filed an appeal against the judgment which was dismissed. Pursuant thereto, Rachhpal Singh was appointed as Chief Inspector vide order dated 3.1.1995 w.e.f. 6.3.1990 i.e., the date he had been appointed as Inspector. His appointment was challenged by one Swaran Singh and another in CWP No.731 of 1997 claiming that the appointment was not in accordance with Rules. The writ petition was allowed. The appointment was quashed. It was held that the

Punjab Roadways had wrongly treated the decree of the Civil Court as a

direction to appoint. The decree in fact was only that he was entitled to be considered for appointment as such. The official respondents were directed to reconsider the case of Rachhpal Singh in the light of the decree and keeping in view the policy and the Rules.

14. Thereafter, the Divisional Manager, Punjab Roadways passed order dated 11.7.1997 appointing Rachhpal Singh as Chief Inspector. This order was cancelled by the Government on 10.10.1997. Rachhpal Singh filed CWP No.16853 of 1997 impugning the order cancelling his appointment as Chief Inspector. The writ petition was allowed. It was held that the Divisional Manager, Punjab Roadways had duly considered the case of Rachhpal Singh. It was found that on the date when he was appointed as Inspector in 1990 post of Chief Inspector in the direct recruitment quota was available and he fulfilled the requisite qualifications for the said post. In view thereof no fault was found in the order of the Divisional Manager appointing Rachhpal Singh as Chief Inspector. No reasons have been mentioned in the order dated 10.10.1997 of the Joint Secretary (Transport) as to how the appointment of Rachhpal Singh as Chief Inspector was illegal. Accordingly, the petition was allowed. SLP(Civil) No.1623 of 1998 against the aforesaid judgment was dismissed by the Hon'ble Supreme Court on 12.10.1998.

15. The appellant evidently can draw no help from the case of Rachhpal Singh. His appointment as detailed above is on account of Court orders. The appellant cannot claim parity with him particularly as unlike the case of Rachhpal Singh the civil suit of the appellant for appointment as Chief Inspector was dismissed.

compassionate grounds on 3.3.1982. He was then about 23 years of age. With that appointment the objective and purpose of compassionate appointment was achieved. If the appellant aspired for a higher post it was always open to him to have competed for a regular appointment. It is not known whether the appellant did so. Instead he appears to have expended his time and energy at securing initial appointment as Chief Inspector. He appears to have viewed the compassionate appointment on a particular post as his legal right which it may not be.

17. The writ petition has been rightly dismissed by the Ld. Single Judge after exhaustively referring to various decisions of Hon'ble Supreme Court.

18. There is no merit in the appeal and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

July 31, 2019
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No