

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(348)

CWP-13141-1996 (O&M)
Decided on: March 04, 2020.

B.L. Bhardwaj

.... Petitioner

Versus

Commissioner and Secretary to Government Haryana and Others

..... Respondents

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General Haryana.

Mr. Rajesh Goyal, Advocate
for Mr. Pritam Saini, Advocate
for respondent No.3.

-*-

RITU BAHRI, J. (Oral)

The brief facts of the case are that the petitioner initially joined as a Clerk/typist on 19.07.1979 with the Local Fund Accounts Department. He continued to work on the said post upto 27.07.1981. Thereafter, he was selected by the Haryana Subordinate Services Selection Board in the Tourism Department as a Stenotypist (English) and subsequently joined his services on 29.07.1981. Thereafter, he was promoted as Junior Scale Stenographer in the Tourism Department on 29.07.1983 and was confirmed on the said post on 20.09.1985.

Vide circular No. 1645-1743 dated 17.01.1985 the Haryana Law and Legislative Department (hereinafter referred as a Department) invited applications for filling up the posts of Senior Scale Stenographers

and Junior Scale Stenographers etc., from the Departments of Haryana Government on the basis of transfer. In circular it was stated that all experienced Senior Scale Stenographers, Junior Scale Stenographers and Clerk-typists who were interested to join the Department on transfer basis and are having requisite qualifications as per Rules may apply to the Department to be absorbed as such on any of the above stated posts.

The petitioner had applied for the said Post of Junior Scale Stenographer through proper channel for consideration of his appointment in the said Department. His application was subsequently forwarded by the Tourism Department to the Law and Legislative Department. Thereafter, on dated 01.05.1985 the petitioner was appointed on transfer basis in the Department as Junior Scale Stenographer and he was relieved from the Tourism Department on 30.04.1985. Thereafter, vide office order No.4(381) EA/30160 dated 10.10.1985 to the effect, inter alia stating that the petitioner, permanent as Junior Scale Stenographer of Tourism Department, Haryana is hereby appointed as Senior Scale Stenographer with the Law and Legislative Department (Annexure P4) and subsequently confirmed on the said post of Senior Scale Stenographer vide office order endstt. No. 4(341)EA/1630 dated 24.11.1988 (Annexure P5).

Thereafter, the petitioner was promoted to the Post of Personal Assistant vide office order endstt. No. 1075 dated 01.05.1989 and continues to work on the said post. Subsequently, on 01.04.1995 one post of Superintendent (General) fell vacant, whereas, for appointment to the post of Superintendent (General) Rule 7 of Group 'B' read with Appendix 'B' of the Service Rules 1979 is applicable.

In the meanwhile, the petitioner received a show cause notice

vide memo No.365 dated 12.02.1996 issued by the Legal Remembrancer and Secretary to Government of Haryana, Law and Legislative Department, Chandigarh vide which he was directed to submit the reply as to why the benefit of selection/promotion to the post of Senior Scale Stenographer be not withdrawn from him as he has not completed experience of two years on the post of Junior Scale Stenographer. The petitioner submitted the reply vide his representation dated 11.03.1996 (Annexure P8) which was rejected and the authorities passed the impugned order dated 19.08.1996 (Annexure P9) having endstt. No. 2380 whereby the date of appointment as Senior Scale Stenographer of the petitioner was re-fixed to 01.05.1987 from 10.10.1985 and also recovery was ordered to be made from the petitioner.

Feeling aggrieved, the present writ petition has been filed for quashing the order dated 19.08.1996 (Annexure-P9) whereby the seniority of the petitioner has been re-fixed as Senior Scale Stenographer w.e.f. 01.05.1987 and for directing the respondent Nos. 1 and 2 to consider the petitioner for promotion to the Post of Superintendent (General) in the Law and Legislative Department.

Petitioner who was appointed as Senior Scale Stenographer on 10.10.1985, his date of promotion was changed from 10.10.1985 to 01.5.1987 after observing that after being appointed as Junior Scale Stenographer he has to complete two years of service to make him eligible for participating in the departmental test for promotion to the post of Senior Scale Stenographer. However, he was given an opportunity to pass the test within a period of two years and was wrongly promoted to the post of Senior Scale Stenographer on 10.10.1985. Petitioner had been appointed as Junior Scale Stenographer and he has not completed two years of qualifying

service and he was promoted as Senior Scale Stenographer.

This order was challenged by the petitioner by way of the present writ petition. Notice of motion was issued on 28.08.1996 and operation of the impugned order (Anneuxre P9) was stayed. This petition had come up for hearing on 04.12.1996 and the same was admitted and stay was ordered to be continued. The petitioner has been working since 1981 and must have retired by now while working on the post of Senior Scale Stenographer.

Thus the petition has been rendered infructuous. However the petitioner is entitled to the pension as per the last pay drawn.

The petition stands disposed of accordingly.

March 04, 2020

tarun

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No