

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

**CWP-14298-2019
Reserved on 29.10.2020
Date of decision:04.12.2020**

Smt. Surinder Pal Kaur

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. A.S. Baweja, Advocate for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab for the respondents

SUVIR SEHGAL J. (ORAL)

The hearing of this petition has been taken up through video conferencing on account of outbreak of novel corona virus.

Petitioner has approached this Court under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of impugned order, dated 04.01.2019, Annexure P-3, passed by respondent No.2-Director, Department of Social Security, Women and Child Development, Punjab and for issuance of a direction to the respondents to promote the petitioner as Supervisor from the year 1996-1997 and grant all consequential benefits of salary, seniority etc. on the post of Supervisor along with interest.

Facts, in brief leading to the filing of the writ petition, are that the petitioner after completing her graduation joined as Bal Sewika on 20.04.1992 on *ad hoc* basis. Her services were regularized w.e.f 18.01.1995. Circular-instructions dated 14.06.1989, provided that a Bal Sewika with 8 years experience was eligible for promotion as Supervisor against 5% quota reserved for them. The grievance of the petitioner is that despite the fact that posts were available and she was entitled for promotion w.e.f. 1996, her promotion order was issued on 03.10.2008. She filed CWP No.8344 of 2011 which was disposed of by this Court vide order dated 09.08.2018, Annexure P-2, directing the respondents to treat the writ petition as a representation and to decide the same by passing a speaking order. In pursuance thereto, respondent No.2 passed the impugned order dated 07.01.2019, Annexure P-3 and came to the conclusion that the promotion order dated 03.10.2008 of the petitioner has been issued as per rules.

Upon notice, the writ petition was contested by the respondents by filing a reply wherein it was submitted that the instructions dated 14.06.1989, Annexure R-1 were modified vide memo dated 16.10.1996, which provided that 5% of the promotions for the post of Supervisor were to be made from amongst the Bal Sewikas/Grah Sewikas on merit-cum-seniority basis. It was further submitted that till 1997-1998, there were 754 posts of Supervisors and 5% promotional quota worked out to 37 posts. In accordance with the instructions, 20 Bal Sewikas, who were placed at serial No. 21 to 44 in the seniority list were promoted. However, the petitioner, was at No.47 in the seniority list. A specific

stand has been taken by the respondents that no employee junior to the petitioner was promoted prior to her.

Counsel for the petitioner has argued that the petitioner completed 8 years' experience on 20.04.2000 and despite being eligible, she was ignored and eventually promoted in 2008. He has submitted that two employees, namely, Malkiat Kaur and Sarabjit Kaur were promoted vide office order dated 08.07.2016 and they were granted notional pay w.e.f. 1.1.1997 and were also given the benefits of ACP. He submits that the petitioner is entitled to the same benefits.

State counsel has opposed the petition and submitted that against 37 available quota posts, 40 persons had been promoted. In other words, his submission is that excess promotions had been carried out and it was only in 2008 when more posts were sanctioned that the petitioner was promoted.

I have considered the submissions of the respective parties and have gone through the paper book with their able assistance.

Perusal of the record shows that till the year 1997-1998 there were 753 posts of Supervisors. 5% promotional quota meant for Bal Sewaks/Grah Sewikas came to 37 posts. In terms of the instructions dated 16.10.1996, Annexure P-1, 20 Bal Sewikas whose names figured at serial No.21 to 44 of the seniority list were promoted. One post was kept in abeyance for Davinder Kaur, who was at serial No.31 in the seniority list as she was not promoted due to pendency of departmental proceedings against her. The petitioner was at serial No.47 in the seniority list. A total of 49 persons were promoted in 1997-1998 as Supervisors from Bal

Sewikas. After further promotion of 6 Supervisors' to higher posts, retirement and termination, 40 Supervisors were working against the promotional quo ta of 37 posts available under the instructions, Annexure P-1.

The petitioner was appointed as Bal Sewika in 1992 and was regularized on 18.01.1995. She completed 8 years of service in 2003. In the meantime, Punjab Social Security and Development of Women and Children (Group C) Non-Ministerial Service Rules, 2001 were notified which provided that 75% of the posts of Supervisors are to be filled in by way of promotion out of which 5% quota is to be filled by promotion from amongst Bal Sewikas or Grah Sewikas who have a working experience as such for a period of 8 years. 49 new posts of Supervisors were created by the Government vide memo dated 31.08.2006. The petitioner was, accordingly, promoted as Supervisor vide order dated 03.10.2008. A categoric assertion has been made by the respondent that due to non-availability of posts from 1997 to 2006, no Bal Sewika was promoted and till 2008 when the petitioner was promoted, no junior to her had been promoted before her. Insofar as the case of Malkiat Kaur and Sarabjit Kaur is concerned, it is apparent from the record that these two employees were direct appointees as Supervisor in the category of wards of Freedom Fighter and had joined their posts in pursuance to the orders passed by this Court in CWP No.15543 of 2008, decided on 29.04.2010. Since these two employees were appointed in pursuance to the selection carried out in the year 1996-1997, they were granted notional pay w.e.f. 01.01.1997. The petitioner cannot claim any parity

with these said employees. Accordingly, this court does not find any infirmity in the impugned order.

Finding no ground for interference, the writ petition is dismissed.

04.12.2020

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No