

IN THE HIGH COURT OF PUNJAB ANDHARYANAAT
CHANDIGARH

CWP No. 13696-2012
Date of decision:-12.03.2020

Lekh RajPetitioner
vs.

State of Haryana and ors.Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. V.B. Aggarwal, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana

RITU BAHRI, J.(Oral)

The petitioners have questioned the validity of the order dated 9.2.2012 relating to promotion to the post of Assistant and further rejection of the petitioner's claim for promotion to the post of Assistant from the date respondent Nos.3 and 4 were promoted as Assistant on 11.08.2006.

On 22.05.2017, this Court passed the following order:-

“Petitioner's grievance is that he is entitled for promotion to the post of Assistant. Perusal of the dates and events read with service particulars of the petitioner and private respondents (respondents No.3 and 4). It is evident that petitioner is senior to respondents No.3 and 4. method of recruitment to the post of Clerk and Assistant is direct recruitment and promotion. Insofar as promotion is concerned, it is seniority-cum-merit (on seniority basis).

Learned State counsel submitted that they have prepared a seniority list which was published as on 1.1.1997 in which names of those persons have been reflected who joined service in the year

1959. Whereas names of the petitioner and private respondents No.3 and 4 are not reflected. The reason assigned by the learned State counsel that they were already promoted. Their names should have been reflected for the reasons that persons who joined service in the years 1959 to 1.1.1997, their names are to be reflected. Without notifying seniority list, both the petitioner and respondents No.3 and 4 have been promoted. In other words, pick and choose method has been adopted for the purpose of promotion to the cadre of Clerk and Assistant. Therefore, concerned respondent is hereby directed to re-notify the seniority list of Class-IV employees, clerk and Assistant. Initially provisional seniority list be published inviting objections and suggestions from the likely to be affected persons and thereafter finalize the same after due consideration of objections/suggestions. If there is any change in ranking among the petitioner and private respondents No.3 and 4, necessary review of promotion be undertaken. The above exercise shall be completed before the next date of hearing. If the same is not complied by the next date of hearing, Excise and Taxation Commissioner is directed to be present in Court and apprise this Court.

List this matter on 3.10.2017.”

In compliance of the above order, a written statement was filed on 06.03.2019 and in para No. 6 of the written statement, it has been stated that seniority list of Class IV employee and Clerk has been prepared after adopting due procedure. The name of petitioner is reflected at Sr. No. 249-A and name of respondent Nos. 3 and 4 reflected at Sr. No. 254-A and 258A

respectively, which was on the basis of their date of joining as Peon. A notice was issued to all concerned on the tentative seniority list of Class IV employees vide order dated 15.09.2017 and called objections if any. Thereafter, tentative seniority list was prepared after removing the objections. The seniority of private respondent Nos. 3 and 4 is w.e.f 11.08.1998 in place of 04.05.1982. The petitioner is at Sr. No. 814 and is junior to respondent Nos. 3 and 4. The private respondents have also been given the benefit of accelerated seniority from the year 1988.

No replication to the written statement has been filed till date by the petitioner.

Learned counsel for the petitioner has further informed the Court that the petitioner retired on 30.09.2012.

Keeping in view the fact that the petitioner was junior to respondent Nos. 3 and 4, therefore, at this stage no ground is made out for quashing the impugned orders.

Dismissed.

(RITU BAHRI)
JUDGE

12.03.2020
G Arora

Whether speaking/reasoned	:	Yes
Whether reportable	:	No