

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No.10563 of 2017  
Date of decision :10.02.2020

Chattar Pal

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE Ms. JUSTICE RITU BAHRI

**Present:-** Mr.Nonish Kumar, Advocate, for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana.

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**RITU BAHRI, J. (ORAL)**

The present writ petition has been filed seeking quashing the impugned order dated 09.05.2017 (Annexure P-7) passed by respondent No.3 whereby the promotion of the petitioner has been withdrawn ever after the judgment and decree in his favour and further seeking re-fix the same at par with the juniors who are getting higher pay scale then the petitioner.

The brief facts of the case are that vide Annexure P-2, the Court of Civil Judge (Jr.Divn.), Karnal, decreed the suit of the petitioner for promotion w.e.f. 26.07.1985 on the post of Water Pump Operator Gr.II being senior to one Sh.Satpal and Ram Richh. However, counsel for the petitioner has stated that against this decree, the appeal was filed which was dismissed. The grievance of the petitioner is that he stood promoted w.e.f. 26.07.1985 and the respondent thereafter vide impugned order dated 09.05.2017 (Annexure P-7), reverted the petitioner and withdrew the promotion order and he was issued show cause notice dated 20.10.2016 (Annexure P-5) as to why his promotion from work charge employee be not

cause notice on 03.01.2017 and again on 14.02.2017. After giving him opportunity of hearing on 14.02.2017, the promotion of the petitioner was withdrawn on the ground that there was no provision for promotion for work charge in P.W.D Code. At this backdrop, present writ petition has been filed.

The stand of the respondents in the written statement is that petitioner was engaged as Mali-cum-Chowkidar on 17.02.1982 on work charge basis and he was promoted as Water Pump Operator-II w.e.f. 26.07.1985 and his services were regularized w.e.f. 01.01.1987 in the pay scale of Rs.750-940/-. It was admitted by the respondents that petitioner filed a Civil Suit claiming benefit of promotion and pay from the date when his junior was promoted. The Civil Suit was decided on 01.04.1999 in favour of petitioner and the appeal filed by the Department was dismissed. Thereafter, they have referred to LPA decision (Annexure R-1), whereby his promotion to the post of Water Pump Operator Gr:II by counting the work charge period was considered by the LPA Bench in LPA No.1248 of 2009 vide decision dated 23.03.2012 it was held that such a promotion was an error and petitioners were not eligible whereby in similar circumstances promotion order has been withdrawn was upheld and the writ petition was dismissed. The LPA Bench dismissed the appeal filed by such employees and keeping in view the judgment passed by the LPA Bench (Annexure R-1), show cause notice was issued to the petitioner and impugned order Annexure P-7 passed. Learned counsel for the petitioner has referred to the judgment in **Tej Pal Vs. State of Haryana** passed in **CWP No.12215 of 2008 (O&M)** whereby while referring to LPA No.1248 of 2009, the

given by taking the work charge period into account. However, his suit had been decreed and decree had been attained finality. Therefore, on the date of that promotion, the other employees who were senior to Dev Raj could not claim parity. It is not a case of the respondents that promotion order of Dev Raj has been withdrawn. It is also nowhere mentioned in the written statement that promotion of the Dev Raj was withdrawn. Once the promotion given to Dev Raj in accordance with the decree, the petitioner cannot be treated separately and he has to be treated at par with Dev Raj.

Accordingly, the writ petition is allowed and impugned order (Annexure P-7) is hereby set aside. Petitioner is entitled for promotion with all consequential benefits.

10.02.2020  
anil

**(RITU BAHRI)**  
**JUDGE**

**Whether speaking/reasoned = Yes/No.**

**Whether reportable= Yes/No.**