

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

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Civil Writ Petition No.18486 of 2016 (O&M)
Date of Decision: January 27th, 2020

Daljit Singh Bhullar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Birinder Singh Khehar, Advocate
for the applicant-petitioner.

Ms. Anu Pal, Deputy Advocate General, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.3296-CWP of 2019

Prayer in this application is for placing on record
Annexures P-10 to P-13 and photocopies of the same.

Application is allowed subject to just exceptions.

Annexures P-10 to P-13 along with photocopies of the same are
taken on record.

CWP-18486 of 2016

Petitioner has approached this Court praying for issuance of
writ of mandamus directing the respondents to consider and promote the
petitioner to the post of General Manager by counting the officiating service
rendered by him as a Traffic Manager as detailed in Annexures P-3 colly.

2. It is the contention of learned counsel for the petitioner that by
counting the officiating service, which the petitioner had rendered,
as detailed in Annexures P-3 colly., he would complete the period of seven
years for making him eligible for consideration for promotion to the post of
General Manager. He having completed the said period in pursuance to the

officiating period rendered by him, the claim of the petitioner was required to be considered by the respondents. It is asserted that the petitioner retired on 30.04.2016 and was granted extension for two years thereafter but the petitioner was not considered for promotion to the post of General Manager despite the vacancies being available. He, thus, contends that the writ petition deserves to be allowed and a direction be issued to the respondents to consider the claim of the petitioner and promote him to the post of General Manager.

3. On the other hand, learned counsel for the respondents, asserts that the officiating period which has been rendered by the petitioner, cannot be taken into consideration for promotion to the post of General Manager. It is further stated that the order on the basis of which the petitioner has proceeded to officiate as General Manager was not by the competent authority. It is further asserted by her that despite the vacancies being available, no person was promoted to the post of General Manager and still the said posts are lying vacant. This she states on instructions from Mr. Ravinder Singh, Senior Assistant, office of Director State Transport, Punjab, Chandigarh. It has further been asserted by the counsel for the State that no person, who was junior to the petitioner, has been promoted prior to his date of retirement and in fact, none has been promoted as the posts are still lying vacant. She, therefore, contends that the prayer as made by the petitioner deserves to be rejected.

4. I have considered the submissions made by the counsel for the parties and with their assistance, have gone through the records of

the case.

5. As far as the assertion of the counsel for the petitioner that the officiating service of the petitioner has to be taken into consideration for promotion to the post of General Manager is concerned, the same has to be accepted except for the fact that if the order in pursuance thereto the petitioner had worked, was not passed by the competent authority. In the reply which has been filed by the State, nothing has been mentioned as to which was the competent authority, which should have passed such an order and/nor has it been mentioned as to which authority has passed such an order, therefore, the plea of the petitioner on this aspect cannot be accepted because of lack of pleading.

6. In any case, even if the petitioner fulfills the experience as is required for promotion to the post of General Manager, mere availability of posts for consideration for promotion, does not confer a right of promotion on an employee. It is for the competent authority to consider whether a post available has to be filled up or not. The respondents, it appears, have not yet taken a decision to fill up the posts of General Manager, which were lying vacant at the time when the petitioner is claiming him to be eligible for promotion. Prior to his retirement on 30-04-2016, it is an admitted fact that no person junior to the petitioner, has been promoted, rather the counsel for the respondents, on instructions, has stated that the said posts are still lying vacant and none has been promoted to the post of General Manager.

7. If that be so, the prayer made by the petitioner cannot be accepted as an employee has only a right for consideration for promotion

and that too if the appointing authority chooses to fill up the said post.
Mere availability of the post does not confer a right of promotion on an employee.

8. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

January 27th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No