

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-5099-2012

Date of decision: 15.01.2020

Prem Singh

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. J.S.Dahiya, Advocate
for the petitioner.

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

RITU BAHRI, J.

The petitioner is seeking quashing of action and order dated 18.06.2010 (Annexure P-3) and 28.10.2011 (Annexure P-13) whereby the respondents had not considered him for promotion to the post of Tehsil Welfare Officer.

The petitioner was appointed as Cook on 21.06.1983. He was promoted as Clerk on 10.10.1990. He was further promoted as Accountant-cum-Clerk on 12.11.1993.

Learned counsel for the petitioner contends that as per notification dated 23.01.2009 (Annexure P-1), petitioner had right for promotion to the post of Tehsil Welfare Officer. The relevant rule is as under:

- i. "25% by promotion from amongst the accountant-cum-clerk/Cashier/Junior Scale Stenographer and
- ii. 75% by direct recruitment."

The petitioner gave representation dated 18.03.2009 (Annexure P-2) to consider him for the post of Tehsil Welfare Officer. However, the petitioner was promoted on the post of Assistant alongwith respondent No. 3 vide order dated 18.06.2010 (Annexure P-3). The petitioner gave his representation on 21.07.2010 (Annexure P-4) to promote him to the post of Tehsil Welfare Officer and since the representation was not decided, he was compelled to join on the post of Assistant on 27.07.2010. The petitioner again made representation dated 09.08.2010 (Annexure P-5) when department was taking option from employees for promotion to the post of Tehsil Welfare Officer. However the committee accepted the request of respondent No.3-Saroj who was promoted to the post of Assistant alongwith him. Vide order dated 26.08.2011 (Annexure P-7) she was promoted to the post of Tehsil Welfare Officer. He again made representation on 02.09.2011 (Annexure P-8) and thereafter one more junior i.e. respondent No. 4-Joginder was promoted on 08.09.2011 (Annexure P-9). The petitioner, thereafter, was confirmed on the post of Assistant. He again made request for promotion to the post of Tehsil Welfare Officer vide representation dated 19.09.2011 (Annexure P-11). The petitioner was finally confirmed on the post of Assistant vide order dated 28.10.2011 (Annexure P-13) and in this backdrop, writ petition has been filed.

Learned counsel for the petitioner contends that petitioner being senior to respondents No. 3 and 4 had a prior right of promotion to the post of Tehsil Welfare Officer and the Department had deprived him of his legal right keeping in view his seniority.

The respondents in the written statement have taken stand that post of the Tehsil Welfare Officer, Assistant, Accountant and Junior Auditor are sanctioned in the analogous pay scale i.e. Rs.9300 to 34800+3200 grade pay and have common feeder from Accountant-cum-Clerk/Cashier and Junior Scale Stenographer. As per Rule 6 of the Welfare of Scheduled Castes and Backward Classes Department Haryana (Group-C) Service Rules, 1997 (in short 'Service Rules'), respondent No. 2 is the competent authority to consider the case of promotion from Accountant-cum-Clerk to Tehsil Welfare Officer and while exercising powers under Rule 6 of the Service Rules, 1997, Neelam Rani, Sushma Rani, Prem Singh, Saroj Devi, Azad Singh, Balwan Singh and Naresh Kumar were considered for promotion to the post of Assistant and vide order dated 18.06.2010, petitioner was promoted as Assistant and after joining on 27.07.2010, he continued to work on the post of Assistant. It is further stated in the written statement that most of the employees after promotion to the post of Assistant want to be adjusted as Tehsil Welfare Officer which is a public dealing post in field offices.

Keeping in view the above facts as per Rule 6, the respondent No. 2 being appointing authority has been given administrative charge to promote candidates to the post of Tehsil Welfare Officer. Moreover respondent No. 4 was promoted to the post of Assistant but he did not join at this post and requested for the post of Tehsil Welfare Officer as and when post becomes available. He was given promotion as per order dated 08.09.2011 (Annexure P-9). Petitioner was promoted on the post of Assistant in the year 2010 and joined on 27.07.2010. If the petitioner

wanted to be promoted as Tehsil Welfare Officer, he also could have foregone his promotion as Assistant since respondent No. 4 after foregoing his promotion as Assistant, was promoted as Tehsil Welfare Officer vide order dated 08.09.2011 (Anneuxre P-9). In para 10 of the written statement, it is further stated that some of the employees who were promoted to the post of Assistants like the petitioner had also given representations to adjust them to the post of Tehsil Welfare Officer and the Department reconsidered the matter and decided that the officials who were promoted as Assistants and adjusted as Tehsil Welfare Officer was improper and they should be reverted to the post of Assistants. One Gurnam Dass, Accountant-cum-Clerk and Ranbir Singh, Accountant-cum-Clerk who were promoted to the post of Assistants during the year 2008 and joined on this post on 05.02.2008 and 26.05.2008 respectively, were subsequently adjusted as Tehsil Welfare Officers but were reverted to the post of Assistant vide office order dated 24.10.2013. They filed CWP No. 24250 of 2013 and the reversion order was stayed vide order dated 07.11.2013. In this backdrop, all the officials who were promoted to the post of Assistant and subsequently adjusted as Tehsil Welfare Officer were required to be reverted to the post of Assistant.

Learned counsel for the State has further informed that this writ petition has become infructuous as during the pendency of this writ petition, petitioner has now retired on 30.11.2019 after being promoted as Deputy Superintendent and he has been released all the retiral benefits.

Keeping in view above, no case is made out to give direction to the respondents to adjust the petitioner on the post of Tehsil Welfare Officer

as respondent No. 4-Joginder, who was promoted to the post of Assistant, did not join on this post and thereafter he was promoted vide order dated 08.09.2011 (Annexure P-9). Moreover, as per stand taken in the written statement that after the promotion of the Assistants, majority of the Assistants wanted to get promotion of Tehsil Welfare Officer. As per Rule 6 of the Service Rules, respondent No. 2 is competent to consider the matter regarding promotion on the post of Tehsil Welfare Officer. Respondents have exercised this discretion as per Rule 6 of Service Rules and have given promotion to Saroj vide order dated 26.08.2010 (Annexure P-7). Moreover the post of Assistant and Tehsil Welfare Officer carry the same pay scale, hence the petitioner has not suffered any financial loss on account of not being promoted as Tehsil Welfare Officer.

No merit.

Dismissed.

(RITU BAHRI)
JUDGE

15.01.2020

Divyanshi

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No