

Sr. No. 216

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

**CWP-21086 of 2018 (O&M)
Date of Decision: 15.06.2020**

Jaswinder Singh

...Petitioner

Versus

State of Punjab & Ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Puneet Gupta, Advocate
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.
for respondent No.1

Mr. Sanjeev Sharma, Advocate
for respondents No.2 and 3.

(Presence recorded through video conference)

ARUN MONGA, J.

1. Claiming to be ex champion of so called team sports “Tug of war,” petitioner herein is, literally in tug of war with his employer, seeking promotion to the post of District Mandi Officer. A prayer, inter alia, has also been made in the petition to quash DPC proceedings dated 10.11.2017 and 22.03.2018, by virtue of which the matter for promotion to the post of District Mandi Officer was deferred despite the petitioner allegedly fulfilling the eligibility criteria, being purportedly at top of the seniority list as a Deputy District Mandi Officer.

2. It is the case of the petitioner that he initially joined as a Clerk on 02.08.1989. He was promoted to the post of Junior Assistant on 19.04.2001. Later, was given promotion to the post of Senior Assistant on 01.08.2008. Petitioner asserts that in recognition to his achievement in the team sport of “Tug of War” being member of the team which secured first position in 6th

Senior Federation Cup National Championship held on 1/2.5.2007, Government of Punjab approved the recommendation of respondent-Mandi Board for giving him out of turn one step hike/promotion from the then post held by him. Consequently, on 02.01.2009, his post was upgraded as Secretary, Market Committee. Thereafter, he was promoted to the post of Deputy District Mandi Officer on 25.06.2014.

3. According to the petitioner, the essential qualification for promotion to the post of District Mandi Officer is three years' experience on the post of Assistant/ Deputy District Mandi Officer. The grouse of the petitioner is that despite having taken up the matter for consideration of promotion to the post of District Mandi Officer from amongst the eligible Deputy Mandi Officer by the DPC on 10.11.2017 and 22.03.2018, wherein the name of petitioner was in the zone of consideration, the matter has been deferred, ignoring the eligibility and seniority of the petitioner. Hence the writ petition for mitigation of his grievance.

4. Before proceeding, it would be apposite to refer to certain proceedings of this court. On 23.08.2018 when instant petition came up for hearing, my Learned Senior Brother Jaswant Singh, J. speaking for this court, observed as under:-

“Before proceeding any further, Mrs. Monica Chhibber Sharma, Senior Deputy Advocate General, Punjab, who is present in Court, is directed to seek instructions from the Department of Agriculture, Punjab, and Punjab Mandi Board, under which policy, the petitioner could be appointed in the Sports Quota for achievements in the Sport of “Tug of War”.

Thereafter, the Brother Judge passed the following order on 02.01.2009:-

“Petitioner is stated to have been appointed as a Clerk by the Punjab Mandi Board on 2.8.1989 on regular basis. He was

promoted as a Senior Assistant on 1.8.2008. In view of the petitioner having represented the Punjab State in the Sixth Senior Federation Cup “Tug of War” National Championship held on 1-2.5.2007 and the team having stood first, was upgraded as a Secretary, Marketing Committee on 2.1.2009. Thereafter he is stated to have earned his promotion as Deputy District Mandi Officer on 25.6.2014 and is now claiming consideration for the post of District Mandi Officer. It appears that the “Tug of War” is not a recognized sports for grant of any benefit in the sports quota. It is also not understandable as to how the post of Senior Assistant held by the petitioner was upgraded in view of his sports achievement.

Adjourned to 20.11.2018.

Let the Secretary, Department of Agriculture file his affidavit answering the aforesaid two queries based on statutory recruitment rules and the policies. Copy of the paperbook stands supplied to the learned State counsel.

5. Apropos, an affidavit dated 15.11.2018 by Joint Secretary, Government of Punjab was filed, inter alia, stating as below:-

“7. That in reply to the query posed by the Hon’ble High Court regarding the fact that “Tug of War” is not recognized sports for grant of any benefit in sports quota, the clarification was sought by the Punjab Mandi Board and in reply to the clarification, the Director Sports, Punjab had clarified that “Tug of War” game is neither in the list of sports gradation policy nor there is any provision in this policy to give the benefit of promotion. Therefore, it is submitted that as per the clarification given by Director Sports, Punjab, no benefit can be granted to the sports quota as “Tug of War” sports.

8. That the Hon’ble Court was pleased to pose another query regarding “as to how the post of Senior Assistant held by the petitioner was upgraded in view of his sports achievement”. It is humbly submitted that most of the record including record

pertaining to up-gradation of present petitioner was gutted in the fire incidence which took place on dated 17th March, 2013 in Room No. 702, 7th Floor, Mini Secretariat, Punjab where the entire office record related to Punjab Mandi Board was kept. File related to this issue also got burnt in the said fire. Therefore, it is humbly submitted that in the absence of the particular relevant record, it is not possible to apprise this Hon'ble Court as on what basis and under what circumstances, the post of Senior Assistant was upgraded in view of his sports achievements, in the present case."

6. After considering the above testimony, when the matter was listed before this court on 20.11.2018, following order was passed:-

"In compliance of the directions passed on 17.10.2018, affidavit dated 15.11.2018 of Mr.Rahul Gupta, Joint Secretary, Government of Punjab, Department of Agriculture has been filed in Court. He is present, and has assured the Court to have a relook at the policy framed by the Punjab Mandi Board, for granting benefits to the sports persons as also the upgradation of the posts for them based on the established parameters. Adjourned to 27.2.2019. Let, a fresh affidavit be filed accordingly."

7. It was in this background that another affidavit dated 27.03.2019 of Joint Secretary, Government of Punjab, was filed deposing as below :-

"7. That in pursuance of the said order dated 20.11.2018, to have a relook at the Sports Policy(2014) of Punjab Mandi Board, report was sought from the Punjab Mandi Board. The Punjab Mandi Board has informed that it has withdrawn the Sports Policy(2014) of Punjab Mandi Board vide order No. 169(2019) dated 22.2.109 because this policy was self contradictory as there is mention of Promotion as well as Upgradation of post and no specific sports discipline was mentioned in the policy to give

benefits under sports quota. Furthermore, the Sports Policy (2014) of Punjab Mandi Board was not approved by Government of Punjab. A true translated copy of order dated 22.2.2019 is attached at Annexure R-1/2.

8. *That it is humbly submitted that as the Sports Policy(2014) has already been withdrawn by the Punjab Mandi Board(Respondent No.2-3), there is no occasion left with the deponent to have a relook at the policy framed by the Punjab Mandi Board.”*

8. Having gone through the pleadings/record and after hearing learned counsel for petitioner as well as learned State counsel, I am of the view that petitioner, perhaps, after having ran out of his luck of conniving in past with certain board officials to get benefit of so-called team sports “Tug of War”, has approached this court. Said sport concededly is not even based on any individual feat/prowess. What happened to the other team members, if they too were Government employees ? Did they also get out of turn promotion like petitioner ? Be that as it may, petitioner’s speculative confidence is, that since earlier too, he was given the benefit of team performance in so called sport of “Tug of War”, why not now ? Irrelevant, howsoever, unlawful the earlier up-gradation of his post and based thereon further promotions ! Petitioner believes to get away by citing precedent of up-gradation his earlier post and his subsequent promotions so as to seek further *mandamus* of next promotion on the basis of his unrecognized achievements.

9. Having noticed the abnormality, it was possibly in this background that this court passed the orders, *ibid*. To put the matter to rest, in view of the unequivocal stand of the State Government that “Tug of War” is not a recognized sports, there is no room for interference by this Court. The claim of the petitioner for promotion to the post of District Mandi Officer on the basis of

previous up-gradation/promotion by virtue of sports achievement does not, therefore, survive any more. Per his own claim, the post of the petitioner was upgraded from Senior Assistant to that of Secretary, Market Committee and in recognition to his so-called achievement in team sports of “Tug of War”. As per affidavit dated 15.11.2018, *ibid*, it has specifically been stated by the State that, as informed by the Sports Department neither “Tug of War” game is neither included in Sports Gradation Policy of Sports Department nor there is any provision in this policy to give benefit of promotion.

10. Moreover, as stated in affidavit dated 27.03.2019, respondent Mandi Board has withdrawn the Sports Policy of year 2014, being self contradictory. In both the affidavits, the Department has failed to justify the initial up-gradation of petitioner from the post of Senior Assistant to that of Secretary, Market Committee and petitioner’s continuation on such posts. Especially, in the light of recommendations of Sports Department to the effect that “Tug of War” is not included in Sports Gradation Policy. In my pondered opinion, once the very basis of claim of petitioner is non-existent, the writ petition deserves dismissal. No interference of this court is warranted in exercise of extraordinary writ jurisdiction.

11. Before parting, it would not be out of place to observe that in view of the conceded self proclamation of the petitioner, the State Government and/or Mandi Board are at liberty to proceed in the manner, as deemed fit, so as to find out how sport of “Tug of War” was taken as a basis for up-gradation to the post of Secretary, Market Committee and then subsequent promotion to the post of Deputy District Mandi Officer, on the basis of which the petitioner now stakes his claim for further promotion to the post of District Mandi Officer. The specious plea taken by the State Government in its affidavit, *ibid*, that the relevant service record of the petitioner was gutted in the fire incident which

took place on 17.03.2013 does not advance the case of the petitioner. In as much as, he himself concedes that he stole a march over others on the basis of so-called sports of “Tug of War”. It is, however, made clear that aforesaid comments of this Court and/or liberty to the State Government/Mandi Board shall not, in any manner, be construed to mean to divest the petitioner of the benefits accorded to him in past, if the same are otherwise found to be legitimately bestowed. With these observations, petition stands dismissed.

15.06.2020	(ARUN MONGA)
Jiten	JUDGE
Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No