

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

CWP-8129-2016

Date of Decision:08.01.2020

Rajbir Parkash

... Petitioner

Vs.

Union of India and others

... Respondents

**CORAM : HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

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

Mr. Namit Kumar, Advocate
for respondents No.1 to 3.

SANT PARKASH, J.

The petitioner has sought for issuance of a writ in the nature of certiorari for quashing the impugned orders dated 23.07.2014 (Annexure P-1) and 26.09.2014 (Annexure P-2) passed by the Central Administrative Tribunal whereby the original application as well as review application of the petitioner claiming promotion at par with his juniors have been declined.

Admittedly, the petitioner was appointed as Gramin Dak Sewak (GDS) on 27.10.1983. Grievance of the petitioner was that despite putting more 28 years of service, he was not given any promotion whereas the private respondents No.4 to 41 were promoted as Group-D outrightly ignoring the claim of the petitioner. On coming to his knowledge, he made representations but to no effect. The petitioner filed original application before the Central Administrative Tribunal which was disposed of vide order dated 6.10.2009 on the ground that the petitioner had failed to substantiate his case as he was not having the gradation list and further

granted the liberty to the petitioner to file an appeal before the Appellate Authority under RTI Act, if so desired. Resultantly, he filed appeal before the concerned authority which provided the information and it revealed that two persons namely Virender Kumar GDS and Mahender Kumar GDS who were much junior to the petitioner have been promoted to post of Group-D whereas the claim of the petitioner was declined. Thereafter, the petitioner filed Original Application before the learned Tribunal and the learned Tribunal dismissed the same arbitrarily and without application of mind. That order was challenged before this Court by filing CWP No.4235 of 2012 and vide order dated 20.03.2012, writ petition as well as Original Application was withdrawn with liberty to file fresh Original Application with more information and clear evidence. The petitioner again approached Central Administrative Tribunal through review application but the same was also declined. Hence, this writ petition.

It is pertinent to mention here that at the time of issuing notice of motion, following order was passed by this Court:

“The petitioner's claim for promotion from GDS to Grade-D post has been turned down by the Tribunal after holding that the alleged two juniors, Virender Kumar and Mahender Kumar, belong to OBC category and one of them was directly appointed to Grade-D post on 25.12.1999, whereas other was promoted against single reserved vacancy of OBC Category. The petitioner belongs to Scheduled Caste Category and no person junior to him in that 'reserved category' was found to have been promoted. The petitioner has now come-up with a new claim and contends that as per Gradation List of Grade-D employees of Karnal Division (A-1) one Prithvi Raj at Sr. No.29 is shown to have been appointed as GDS on 22.12.1988, i.e., after the petitioner and he has been further promoted to Grade-D post. Said Prithvi Raj, like the petitioner belongs to

Scheduled Caste Category. Reference is also made to information obtained under the RTI Act (A-8) according to which the said Prithvi Raj was appointed as GDS on 16.06.1990 and presently he is working on Group-D post.

As the information relied upon by the petitioner is quite vague and there is no clarity with regard to the seniority of employees working in GDS Cadre in Karnal Division, let notice of motion be issued to respondents No.1 to 3 only for 30.08.2016. They are directed to produce the records/Gradation List of GDS as well as Group-D employees of Karnal Division.”

In response to the same, a detailed written statement has been filed on behalf of respondents No.1 to 3 negating the claim of the petitioner. It was submitted that all the respondents are senior to the petitioner except respondent No.40-Shri Mohinder Singh who was promoted as Group D on 19.11.2003 against the OBC vacancy whereas the petitioner belongs to SC category and no person junior to him in the reserved category of SC has been promoted till date in Karnal Division. It is also mentioned that respondent Nos.21, 22, 35 were appointed against Group D posts on compassionate grounds on 23.06.1993, 23.11.1993 and 25.12.1999 respectively and therefore, they never held any post of GDS. It is further submitted that the petitioner was appointed as GDS on 27.10.1983 whereas Shri Prithvi Raj, against whom reference is made to information obtained under the RTI Act (A-8), the said Prithvi Raj was not appointed as GDS on 16.06.1990 but was appointed as GDS on 16.06.1970 and Sh. Prithvi Raj has been promoted to Group-D post on 22.12.1988 and the contention of the petitioner in this regard is incorrect.

We have heard and perused the entire record.

It is evidently crystal clear that no injustice has been done to

the petitioner. There is no illegality or infirmity in the impugned orders passed by the learned Tribunal. If glanced through, it would be explicit that the persons promoted from GDS to Group-D were senior to the petitioner. With regard to the position of Virender Kumar and Mahender Kumar, it has been clarified that Shri Virender Kumar at serial No.71, OBC, date of birth 13.12.1976 was appointed as Group 'D' on 25.12.1999. Whereas Mehender Kumar at serial No.76, OBC, date of birth 10.12.1970 was appointed as Group 'D' on 19.04.1994. Virender Kumar was not appointed as GDS but he was appointed as Group 'D' on compassionate grounds and Mahender Kumar was promoted to the cadre of Group 'D' from the EDAs for the year 2001 against the single vacancy available for OBC as he belonged to that category. There is considerable merit in the submissions of the respondents that the name of the petitioner was not considered against OC/OBC as his turn had not come as per the seniority list as there was no vacancy for SC category, to which, the petitioner belong.

In view of the above facts and circumstances, we find no reason to interfere with the impugned orders passed by the learned Tribunal.

Resultantly, this writ petition is dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

08.01.2020
rajeev

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No