

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

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CWP No.23415 of 2021 (O&M)
DATE OF DECISION : 18th NOVEMBER, 2021

Kashmiri Lal

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Mr. Ishaan Bhardwaj, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing of order dated 16.04.2019 (Annexure P-27) whereby the claim of the petitioner seeking promotion to the post of Personal Assistant is rejected by the respondents without considering the service experience of the petitioner on the post of Stenographer from the date of his appointment in the respondent department i.e. w.e.f. 31.07.1995, with a further prayer to issue a writ in the nature of mandamus directing the respondents to promote the petitioner to the post of Personal Assistant w.e.f. 09.01.2012 i.e. when the junior of the petitioner was wrongly promoted at the place of petitioner (subsequently, she was reverted back

but the petitioner was still not given promotion) and all consequential benefits along with interest @ 18% per annum.

The only grievance of the petitioner is that earlier junior to the petitioner, namely, one Geeta Saini was promoted, while ignoring the claim of the petitioner. Her promotion was withdrawn by the respondents on an objection having been raised by the petitioner. Even thereafter, the respondents considered the claim of the petitioner, however, rejected the same by holding the petitioner as ineligible. Further claim of the petitioner is that while reverting the above said, Geeta Saini, the respondents themselves have observed that the petitioner was the senior most and eligible for promotion. Hence, the petitioner is entitled to be promoted w.e.f. 09.01.2012, when the above said junior, namely, Geeta Saini was promoted by ignoring the claim of the petitioner. The benefit has wrongly been declined by the respondents, vide the impugned order.

A perusal of the paper book shows that earlier the above said junior, namely, Geeta Saini was promoted on the post of Personal Assistant. An objection was raised by the petitioner. Therefore, she was reverted back from the post of Personal Assistant to her parental cadre. Thereafter, no person has been promoted on the post of Personal Assistant by the respondents. Although the petitioner might have been wrongly denied promotion at the time when Geeta Saini was promoted, yet the fact remains that her promotion also stood withdrawn by the respondents way back on 16.04.2019. Although, she might have continued on the same post due to interim orders passed by this Court, however, ultimately even her writ petition was dismissed by this Court. Therefore, the alleged junior, Geeta Saini, no more remained on a

promotional post. Her reversion shall relate back to the date of her wrong promotion. Hence, the assertion of the petitioner that the person junior to the petitioner has been promoted and, therefore, he also deserves to be promoted from the same date; does not carry any weight. Whatever wrong was committed by the respondents in promoting the junior, the same already stands withdrawn by them. The petitioner could not draw any benefit out of the mistake earlier committed by the respondents.

Another factor, which deserves notice, is that the petitioner also stands retired from the service on 28.02.2018. Hence, he is no more even available to be promoted on the post of Personal Assistant after that. Faced with the situation, the counsel for the petitioner has asserted that the petitioner would be entitled to, atleast, the consequential benefits, which were drawn by the above said Geeta Saini. However, there is nothing on record to even remotely suggest that she is still continuing with any benefits of the post of Personal Assistant, from which she already stands reverted back to her parental cadre. There is no gainsaying that she might have received higher salary of post of Personal Assistant during the period she actually worked, however that would be only by way of compensation for the work performed on the higher post. The petitioner cannot claim parity only for getting the salary of the post for the duration for which Geeta Saini had worked on the post of Personal Assistant because he never worked on the said post. So far as any other consequential benefit is concerned, it deserves to be noted even at the cost of repetition; that no benefit of promotional post has been pointed out by the counsel for the petitioner, which Geeta Saini might be enjoying even after her reversion. Accordingly, there are no

consequential benefits, qua which the claim of the petitioner can be sustained.

In view of the above, finding no merits in the present petition, the same is dismissed.

18th NOVEMBER, 2021
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(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>