

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

LPA No.1864 of 2019
Date of decision: 15.02.2021

SATISH KUMAR

.....Appellant

versus

STATE OF HARYANA & ORS.

....Respondents

CORAM: Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Shashank Sharma, Advocate for
Mr. Amit Jhanji, Advocate
for the appellant.

Ms. Shruti Jain Goyal, DAG, Haryana.

GIRISH AGNIHOTRI, J.

Appellant-Writ Petitioner, namely Satish Kumar, stated to be aged approximately 53 years, has filed the present LPA *inter alia* with a prayer to set aside the judgment/order dated 12.09.2019 passed by the Ld. Single bench of this Court in CWP No.25698 of 2019.

Records of the case show that vide order dated 15.11.2019, notice on the application for condonation of delay was issued. Thereafter, vide order dated 01.10.2020, in the LPA, directions were given by this Court to

the learned State counsel to seek instructions. On 25.01.2021, a Division Bench of this Court passed the following order:-

“At the outset, learned State counsel submits that inquiry proceedings have culminated into issuance of only a warning. She submits that the case of promotion of Satish Kumar-petitioner from the rank of Assistant to the next rank of Deputy Superintendent/Superintendent has been considered and he has been promoted to the rank of Deputy Superintendent vide order dated 09.03.2020. She further submits that nobody junior to the petitioner has been promoted to the rank of Deputy Superintendent/Superintendent, based on contents of memo No.1958 dated 25.01.2021 issued from the office of Director, Urban Local Bodies, Haryana addressed to the office of Advocate General. Copy of the same has been placed on record.

In response, learned counsel for the appellant by referring to the seniority list (at page 141 of the paper book) has shown that the private respondents are juniors to the petitioner belonging to General Category, in the rank of Assistant and three out of them are of General Category, who have been promoted to the rank of Superintendent/Deputy Superintendent vide order dated 29.08.2019 (Annexure P-15 at page 136), thus, falsifying the information provided vide aforesaid letter/memo.

Faced with this, learned State counsel prays for short adjournment.

Adjourned to 08.02.2021.

Let the Director, Urban Local Bodies, Haryana show cause as to why proceedings for contempt of court should not be initiated for attempting to mislead the Court.”

In response to the order dated 25.01.2021, affidavit dated

04.02.2021 of Sh. Ashok Kumar Meena, Director, Urban Local Bodies, Haryana, Panchkula, has been filed.

In the affidavit, it has been *inter alia* submitted that the information conveyed vide memo dated 25.01.2021 (appended as Annexure A2) was provided by the official concerned at its own level and as per its own wisdom. The deponent has further submitted that the file was not put up before the deponent at that time when the aforesaid information was provided to the Court through Advocate General, Haryana. It has also been stated that since the information was provided without the approval of the deponent, a Show Cause Notice dated 03.02.2021 has been issued to the dealing official. This Court accepts the explanation given by the deponent and deems it appropriate not to proceed further in proceedings for contempt of Court, in furtherance of order dated 25.01.2021.

On merits, the deponent has further submitted that it is a matter of fact that the appellant is senior to all the officials promoted vide order dated 27.08.2019. The case of the appellant was however, not considered on account of pending charge sheet against him. It has been clarified that the aforementioned promotion order was on temporary basis only for a period of 4 months, as the Competent Authority/Appointing Authority i.e. the Government, is to pass regular promotion order to the post of Superintendent.

The deponent has further submitted that the then Director had taken a decision to file the said charge sheet with a warning to the appellant to remain careful in future. The said order was passed on 08.01.2020.

Thereafter, vide order dated 09.03.2020, the appellant was promoted to the post of Deputy Superintendent. It has been clarified that his juniors, who were promoted as Deputy Superintendent as a stop gap arrangement for a period of 4 months vide order dated 29.08.2019 had become ineffective after the expiry of the said period. In the affidavit dated 04.02.2021, with specific reference to para 9, it has been further submitted that matter for consideration of regular promotion to the post of Superintendent was forwarded to the Administrative Department for holding Departmental Promotion Committee in September, 2020. In this recommendation, the name of the appellant was also there, the Departmental Promotion Committee was held and Government of Haryana, vide order dated 15.10.2020, had ordered that 3 officials along with appellant be promoted to the post of Superintendent. Copy of the said order dated 15.10.2020 has been attached as Annexure A-3. In this order, the appellant has been kept at Sr. No.1. It has been further clarified in the affidavit that the said promotion order is made applicable with immediate effect and has not been made applicable with retrospective effect.

At this stage, Mr. Shashank Sharma, Advocate, appearing for the appellant submits that the appellant be given liberty, to avail his remedy for any other relief including retrospective promotion, in accordance with law.

In view of the detailed facts and reasons noticed above, the present LPA is disposed of. No further orders are called for as the appellant has already got substantial relief. However, liberty is granted to the appellant to claim any other relief, including retrospective promotion, in

accordance with law.

Ordered accordingly.

(JASWANT SINGH)
JUDGE

(GIRISH AGNIHOTRI)
JUDGE

15.02.2021
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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No