

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

CWP-10438-1999

Date of decision: 21.12.2022

Kanhiya Lal

....Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Abha Rathore, Advocate,
For the petitioner.

Mr. R.D. Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned promotion order dated 14.05.1999 (Annexure P-3) vide which his counterparts were promoted as Superintendents. Further prayer has been made for issuance of a writ in the nature of mandamus directing the respondents to consider the case of the petitioner for promotion.

2. The petitioner is aggrieved by the impugned order vide which he was found unsuitable for promotion on the ground that “*disciplinary proceedings under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 is pending against him.*” Hence, the instant petition.

3. I have heard learned counsel for the parties and gone through the case file.

4. It transpires that the contemplated departmental action owing to which the petitioner was not considered for further promotion was dropped as is borne out from para 2 of the written statement which is as below:-

“2. That Para-2 of the petition is wrong and hence denied. The petitioner was not found suitable for promotion because the disciplinary proceedings against the petitioner were being contemplated in view of the wrong regularisation of services of certain conductors of Haryana Roadways Faridabad in which the General Manager and the office Superintendent were responsible and an assurance in the regard was given by the respondents in COCP No.1077 of 1997 that the orders of the wrong regularisation of services would be withdrawn and the disciplinary action against the General Manager would be taken. Since, the office Superintendent was equally responsible for making regular appointments against the Govt. Instructions so the disciplinary action was required to be taken against the General Manager as well as against the office Superintendent and in this context the disciplinary proceedings against the petitioner were being contemplated and the competent authority was requested vide memoNo. 27.1.99 to take disciplinary action against the petitioner. The copy of the memo no. 27.1.99 is annexure R-1 and hence he was not found suitable for promotion. Although earlier i.e. for which period the disciplinary proceedings were being contemplated the petitioner was Superintendent but because of the quashing of the order of promotion of some Superintendents in CWP No.3206 of 1997 the promotion of the petitioner being Junior to the Private respondents was also quashed and the petitioner alongwith others were again reconsidered for promotion for the post of Superintendent as at the time of reconsidering the case of promotion, number of vacancies were available for the post of Superintendents and as such number of persons were promoted as Superintendent but the petitioner was not promoted in view of the submissions made above. However, after the conclusion of the disciplinary proceedings, against the petitioner, if the petitioner is exonerated from the allegations, he would be given his due promotion from the date his juniors were promoted and as such for the time being the petitioner has no cause of action to file the present petition.”

5. In view of the aforesaid conceded position, no further proceedings are required. It is obvious that petitioner for no fault of his has already suffered for long the ignominy of not being considered for promotion *qua* his counterparts who have been accorded the benefit of promotion. Respondents are, therefore, directed to consider the petitioner's claim for promotion and pass appropriate order.

6. Needful exercise be carried out as expeditiously as possible but not later than 3 months from today.

- 7. Needless to say that in case favourable order is passed, all consequential benefits be released to the petitioner if not already done.
- 8. Disposed of accordingly.
- 9. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

December 21, 2022

Vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No