

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16054-2001 (O&M)

Reserved on : 30.08.2022

Pronounced on : 11.10.2022

Mahabir Parshad, Zileadar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.S. Sangwan, Advocate
for the petitioner.

Mr. R.D. Sharma, D.A.G., Haryana.

ARUN MONGA, J.

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing the Condition No.3 of order dated 18.12.2000 (Annexure P-2), where it was directed that no arrears of pay shall be paid to the official for the period he did not work as Zileadar.

2. Succinct facts first. Pledged case is that on 30.10.1974 the petitioner was appointed on regular basis as Canal Patwari in PWD, Irrigation Department Haryana. On 16.03.1982, he was promoted to the post of Assistant Revenue Clerk. On 29.12.1995, Sh. Bhan Singh, Sh. Ram Dhan, and Sh. Deep Chand, Assistant Revenue Clerks, who were juniors to petitioner were promoted to the post of Zileadar, with all consequential benefits. Aggrieved against this, the petitioner filed a petition bearing CWP No.601 of 1998, titled *Mahavir Parshad V/S State*

of Haryana and others, which was allowed on 07.09.2000 with following directions:

"Ld State counsel states at the Bar that the case of the petitioner for promotion to the Rank of Zileadar over and above his juniors shall be duly considered and appropriate orders shall be passed within three months.

In view of the stand taken by the State this petition is allowed. The concerned authority, as undertaken, shall pass appropriate orders in respect of promotion of the petitioner within three months from the date of receipt of certified copy of this order."

3. Vide order dated 13.12.2000, the respondents promoted the petitioner to the post of Zileadar with effect from 29.12.1995 i.e. the date juniors of the petitioner were promoted as Zileadar but condition No.3 therein was that "No arrears of pay will be paid to the official for the period he did not work as Zileadar" and the said condition is impugned herein.

4. In the return filed by the State, following unequivocal stand has been taken in para Nos.3, 4 & 5 thereof:

"3. In compliance to the above orders dated 07.09.2000, the petitioner was promoted as Zileadar w.e.f. 29.12.1995 from the date of his alleged juniors were promoted to avoid contempt petition.

4. In compliance to the above orders dated 24.8.2000, the Department has prepared the seniority list of the Canal Patwaris and circulated the same to all concerned S.E.s vide this office letter No.9091-9116/2NGE-II/484/84-Vol-VI dated 27.11.2002. As per latest seniority, the petitioner stands at seniority No.338 whereas his alleged juniors Bhan, Singh Ram Dhan and Deep Chand stands at seniority No.785, 494 and No. 481 respectively. As per seniority so prepared, all the respondents 3 to 5 in CWP No. 601/98 have been issued show Cause Notices for their reversion and there remain no junior person promoted to the petitioner. Thus he was inadvertently promoted as Zileadar to avoid the contempt petition, subject to the decision of the writ petitions pending in Hon'ble High Court which have now been disposed of by orders dated 24.8.2000 mentioned above. The seniority list has been

prepared and the petitioner did not come in the promotion zone as per his seniority. The senior persons whose writ petitions have been allowed in view of orders dated 24.8.2000, have first claim to the petitioner for the promotion as Zildar.

5. That in view of the seniority list issued/circulated of the Canal Patwaris, the promotion of ARC/Ziledars are being reviewed in compliance of the above orders. The junior persons who have been promoted wrongly/inadvertently and do not come in the promotion zone as ARC/Zildar are being reverted. Show Cause Notices are being issued to them such as Shri Bhan Singh, Shri Ram Dhan and Shri Deep Chand who have been impleaded as Respondents 3 to 5 in CWP No, 601 of 1998, including the petitioner for their reversion as Canal Patwaris and R.C. as per their seniority. A true copy of the Show Cause Notice served upon the petitioner is annexed herewith as Annexure R/1.”

5. In view of the aforesaid, nothing survives for adjudication BY this Court as the State made the position very clear that respondents No.3 to 5 were promoted inadvertently and the senior persons whose writ petitions have been allowed in view of orders dated 24.08.2000, have first claim to the petitioner for the promotion as Zildar and show cause notices have been issued to all the persons who were promoted inadvertently.

6. Otherwise also, having once accepted unconditionally the promotion in terms of the promotional order, the petitioner has acquiesced to the terms thereof and later on he cannot as a volte face turn around to claim that despite having not worked on the promotional post he ought to be given higher salary than the post on which he actually worked. Trite it is to say that on the principle of equal pay for equal work the petitioner, who is otherwise not entitled to seek higher salary, cannot claim it once he admittedly worked on the lower post at the relevant time.

7. Dismissed.

8. Pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

October 11, 2022
ashish

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