

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

CWP-17506-2001 (O&M)

Date of decision: August 31, 2022

Om Parkash Yadav

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None 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 the order dated 15.10.2001 (Annexure P-2) whereby respondent No. 3 Sh. Harish Kumar Sharma, Junior to the petitioner, has been promoted as Deputy Superintendent on 12.10.2001 and further to issue a writ in the nature of mandamus directing the respondents to promote the petitioner as Deputy Superintendent from the date his junior was promoted with all consequential benefits of salary.

2. Petition was admitted for hearing in the year 2002. On case being called out, there is no appearance for the petitioner.

3. It seems that by sheer effluxion of time and pendency of the writ petition for more than 20 years before this Court, either it has been rendered infructuous or even otherwise the petitioner seems to have lost interest in pursuing the same.

4. In any case, from a perusal of record/pleadings, it appears that even on merits, claim of the petitioner is not admissible. Reference may be had in particular to the stand taken in Paras- 1 and 2 of the preliminary objections of written statement filed on behalf of respondents No. 1 and 2.

“1. That in reply to paras 1. That the petitioner has approached this Hon'ble Court without availing alternate remedy, of appeal before the Commissioner & Secretary to Government Haryana Urban Development Department, under Rule 14(1) of Directorate of Local Bodies Group-C Service Rules, 1997 against the order of promotion of Sh. Harish Kumar Sharma, Respondent No. 3, passed by Director, Urban Development who is the appointing authority. Therefore, this writ petition is liable to be dismissed on this ground alone.

2. That petitioner while working in Establishment Branch committed very serious omissions and commissions, for which, he was chargesheeted under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 on 6.12.93. Copy of chargesheet is annexed as Annexure R-1. The petitioner in his reply to the chargesheet served upon him vide Annexure R-1, admitted the omissions and commissions, committed by him and tendered an apology. Copy of the reply of the petitioner is annexed as Annexure R-2 and its true translation as Annexure R-2/T. After getting the matter inquired, the petitioner was issued with second show cause notice for removal from service on 18.5.94. Copy of show cause notice annexed as Annexure R-3. Keeping in view the admission made by the petitioner and his

family circumstances, the appointing Authority took a lenient view and awarded the punishment of stoppage of four increments with cumulative effect vide order dated 6.10.94. He was also debarred from posting in Administration as well as Establishment Branch of the office for future. The petitioner filed an appeal before the Commissioner & Secretary to Government Haryana, Urban Development Department, Appellate Authority, against the order of punishment dated 6.10.94. Appellate Authority took a lenient view and the punishment was reduced to stoppage of two stoppage of two increments with cumulative effect from stoppage of four increments. Keeping in view the gravity of charges, his ACR for the year 1993-94 was graded 'Below Average' and the integrity was recorded as doubtful in the ACR. Though, he was allowed to look after the work of Deputy Superintendent in his own pay scale being senior most amongst the Assistants vide order dated 25.7.2000, but this order was withdrawn on 27.3.2001 because he did not perform the duty as Deputy Superintendent honestly and sincerely.

Keeping in view the facts mentioned above and instructions dated 21.5.73 of the Government, the petitioner was not eligible for promotion and Shri Harish Sharma, Respondent No. 3 who was next in the seniority list was promoted as Deputy Superintendent. In these instructions it has been emphasized that if the ACR for the preceeding ten years in respect of the post from which he is to be promoted, there is an adverse remarks regarding his honesty/integrity then the official should

not be promoted. Copy of the instructions dated 21.5.1973 is annexed as Annexure R-4.”

5. Learned State Counsel has canvassed arguments on similar lines as the stand taken in the written statement.

6. I am in agreement with the stand taken by the respondents. In the overall premise, I see no irregularity of any kind committed by the Department as to warrant any judicial intervention of this Court.

8. In view of the aforesaid, no grounds are made out to interfere.

9. Dismissed.

(ARUN MONGA)
JUDGE

August 31, 2022
monika

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No