

CWP-5493-2000 (O&M)

Date of decision: 20.07.2022

Amrik Singh

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Deepak Sonak, 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 to quash the impugned order dated 20.04.2000 vide which claim of the petitioner for promotion has been rejected.

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

3. Record reveals that vide an order dated 22.07.1997 contained at Annexure P-5 after due consideration of the merits of the deserving candidates which included the petitioner, his case was favourably recommended for promotion to the competent authority i.e. Director Department Industries. However subsequently owing to the speaking order dated 20.04.2000 passed by the Administrative Secretary of the Department, the promotion was put on hold. In fact, it would be apposite to reproduce the reasons of the same as recorded in the aforesaid speaking order as below:-

“The State Government has already taken a decision in principle for sending a requisition to the Haryana Public Service Commission for recommending a suitable candidate for this post. Moreover, in the meantime the policy instructions have been received from the Finance Department of the State Government under which the only vacant post of Supdt. (engg.) (now vacant) is liable to be abolished. The final decision is still to be taken as to whether the post be abolished or be filled up by direct recruitment through HPSC.”

Apropos above, a rejoinder affidavit dated 19.02.2002 by K.K.Suneja, Deputy Director of Industries has been filed before this Court wherein following stand has been taken:-

As regard the eligibility of the petitioner, it is submitted that as per the draft proposed rules, he was only eligible for the post to Superintendent Tools & Designs, which was a separate post to that of Superintendent. Tools and Dies/Heat Treatment. The post of Superintendent, tools & Designs was earlier meant for direct recruitment and reserved for ex-serviceman. During the year 1979 requisition to fill up the post of Tools & Designs was placed with the Employment Exchange but there being no candidate available a Non-Availability Certificate was issued and the post was filled up through open market. Shri Kirpal Singh, the candidate belonging to Ex-Serviceman category was appointed against this post. Shri Kirpal Singh vacated this post in the year 1984 and the petitioner being only eligible for this post was promoted as Superintendent, Tools & Designs w.e.f. 08.08.1988 which post is being still held by him. Thus, it is again reiterated that the petitioner has no claim against the post of Superintendent tools & Dies/Heat Treatment and he was eligible to be considered for promotion to the only post of Tools and Designs, which has rightly been given to him w.e.f. 08.08.1988. It may also be made clear that when in the year 1979 Shri J.D.Dambla was promoted as Superintendent Tools & Dies the petitioner also working in the same Centre as Draftsman (Mechanical) never objected to his promotion and at this belated stage he is stopped to agitate under the principle of delay and laches.

That para 3 of the replication is wrong and hence denied. As averred in para 1 above, the petitioner was never eligible for the post of Superintendent, Tools and Dies/Heat treatment Class-III and was only eligible for the post of Superintendent, Tools and Designs against which he was rightly promoted with effect from 08.08.1988. It is wrong to claim that the petitioner was working against the post of Superintendent (Tools and Dies) which was earlier being held by Shri J.D.Dambla. The petitioner has himself admitted in this para that he was promoted as Superintendent Tools and Designs Class-III. One post is Superintendent, Tools and Dies/ Heat Treatment and another is superintendent, tools and Designs and both these posts are in the same tools & Dies Centre. The post of Superintendent, Tools and Dies/Heat Treatment centre belongs to the Engineering Trade and the incumbents of these posts are inter-changeable with that of Assistant Superintendent/Technical Officer in the Engineering Centre. No benefit is available to the petitioner by misleading the Hon'ble Court on this aspect of the case."

4. Learned counsel for the petitioner strenuously controverts the above factual stand and disputes that the post in question was in reality ever given to one Sh. J.D.Dambla as above.

5. Learned State counsel at the Bar under instructions submits that the post in question was indeed consumed and did not remain vacant as the same was given to Sh. J.D.Dambla upon his acquittal in criminal proceedings.

6. In view of the unequivocal stand taken hereinabove and the statement made by learned State counsel, I find no grounds to interfere. Dismissed.

(ARUN MONGA)
JUDGE

July 20, 2022
vandana

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