

Sr. No.655

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CWP-9953-2000 (O&M)
Date of decision: 23.05.2022

Sikander Singh

...Petitioner

Vs.

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 to quash order dated 21.06.2000 (Annexure P-6) vide which respondents No. 3 and 4 were promoted to the post of Naib Tehsildar from Kanungo. Further prayer is also to quash the order dated 04.07.2000 (Annexure P-7) whereby representation submitted by the petitioner was rejected.

2. Petition was admitted for hearing on 18.10.2001.

3. When taken up for final adjudication, there is no representation on behalf of the petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for more than 21 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 perusal of pleadings and court record, it appears that even on merits, claim of the petitioner is not admissible. Qua the claim of petitioner seeking promotion on the post of Naib Tehsildar, reference may be had in particular to Rule 11 of the Haryana Kanungo Service (Group-C) Rules, 1981 read with Rules 7 & 9 of the Haryana Revenue Department Naib Tehsildars (Group-C) Services Rules, 1988.

5. While Rule 7 *ibid* prescribes the requisite qualification and experience, Rule 9 thereof deals with the method of recruitment to the post of Naib Tehsildar. For ready reference relevant extract is as below:-

“9(1)

(a). 50% by direct recruitment;

and

(b). 50% by promotion from amongst Kanungoes, District Revenue Accountants or Senior Revenue Accountants of Financial Commissioner's office;

or

(c). By transfer or deputation of an official already in the service of any state Government or the Government of India.

(2). All promotions shall be made on seniority-cum-merit basis and seniority alone shall not confer any right to such promotions.”

6. It is thus borne out that promotion to the post of Naib Tehsildar from amongst Kanungoes and others is on the basis of seniority-cum-merit. For eligibility one must possess qualification and experience as prescribed in the Rule 7 of the 1988 Rules. Further, Rule 11 of 1981 Rules lays down the method of determining the seniority of the Kanungoes based on total length of continuous service.

7. Seeking dismissal of the petition, in defense it is *inter alia* stated in the return that one Om Parkash, Kanungo filed a civil writ petition No. 17606 of 1999 before this court assailing a letter dated 11.11.1999, whereby the Government had clarified that a candidate can appear in the Nab Tehsildari Departmental examination and he can avail any number of chances till he passes the departmental examination. Shri Om Parkash, Kanungo had claimed that those who passed the Nab Tehsildari departmental examination within stipulated chances and passed the departmental examination earlier should be shown senior to the ones who avail more than three chances. This Court granted an ad interim stay order on 20.12.1999 on the promotion of those Kanungoes who availed more than three chances, but later dismissed the writ petition on 15.05.2000. Petitioner passed

requisite departmental examination on 10.11.1998. However, during the subsistence of aforesaid stay order granted by this court, the result of Nab Tehsildari departmental examination was declared on 19.04.2000. Few other Kanungoes, senior to petitioner, also passed the departmental examination as on this date. Those of the Kanungoes senior to the petitioner also thus became eligible for promotion. After dismissal of writ petition filed by Sh. Om Parkash, entire seniority list of Kanungoes in Hisar division was taken into consideration. After completing all formalities, the promotions were then made vide an order dated 21.06.2000, impugned herein, without any delay on the basis of seniority-cum-merit.

8. Learned State counsel has canvassed his arguments on similar lines as per aforesaid stand taken in the written statement. He submits that even otherwise claim of the petitioner at this stage is totally stale and infructuous as, after rendering full length of service, he has already retired way back on 31.08.2010.

9. In the light of the applicable service Rules *supra*, I am in agreement with the stand taken by the respondents as noted above. Neither any replication has been filed thereto nor any additional affidavit of any kind to controvert the same.

10. In view of the aforesaid, no grounds to interfere.

11. Dismissed.

23.05.2022
Vandana/mahavir

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No