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

CWP-9556-2022

Date of Decision: 07.05.2022

S.K.Saini

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Shalender Mohan, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ of certiorari for quashing and staying the operation of the impugned orders dated 16.04.2022 (Annexure P-1), 28.04.2022 (Annexure P-2) and 29.04.2022 (Annexure P-3) passed by respondent No.2, vide which the petitioner has been deprived of the posting to the post of Divisional Manager (Incharge) in the cadre of the petitioner, i.e Divisional Manager; with a further prayer of issuance of a writ of mandamus directing respondent No.2 to appoint the petitioner as In-charge of the Divisional Office and keep one post of vacant for Incharge of Divisional Office.

The sole argument raised by the learned counsel for the petitioner is that the petitioner is senior in the cadre of Divisional Manager. However, in the matter of postings, the petitioner has been ignored and respondents No.4 to 10, who are junior to the petitioner in the cadre of

Divisional Manager, have been given posting as Incharge of the concerned Divisions by ignoring the seniority of the petitioner. While, the petitioner is still posted as Chief Manager at a branch, the respondents No.4 to 10 have been posted as Divisional Manager (Incharge). By virtue of the postings of the petitioner and respondents No.4 to 10, the petitioner, despite being senior, would be required to report to them in his capacity as Chief Manager in a branch. Hence, the impugned orders are illegal.

Having heard learned counsel for the petitioner and having pursued the case file, this Court does not find any substance in the arguments raised by the learned counsel for the petitioner. It is not in dispute that the petitioner is; substantively; holding the post of Divisional Manager and respondents No.4 to 10 are also holding the posts of Divisional Managers in substantive capacity only. Respondents No.4 to 10 have been posted as Divisional Manager (Incharge) of a Divisional office. Being Divisional Managers, there is no illegality with the postings of respondents No.4 to 10 as Divisional Manager (Incharge). Being the substantively promoted Divisional Managers, they are suppose to be posted Divisional Manager (Incharge) of the Divisional office, as well, besides being liable to be posted on any other post, which is interchangeable with the post of Divisional Manager. Respondents No.4 to 10 were earlier working as Marketing Manager. The petitioner was working as Chief Manager. It is not even in dispute that the post of Marketing Manager, Chief Manager and the Divisional Manager (Incharge) are interchangeable qua their postings. Vide the impugned orders, respondents No.4 to 10 have been only given

postings on the post of Divisional Manager, which they substantively hold. The petitioner is also posted on a post which is equivalent and interchangeable with the post of Divisional Manager. Hence, there is no illegality in the posting order, which has been impugned in the present petition.

Carrying forward the argument, learned counsel for the petitioner has submitted that while making postings, the official respondents have not kept the seniority of the incumbents in consideration. The petitioner is senior to them, despite that, now the petitioner would be required to report to the Divisional Manager (Incharge). However, this Court does not find any substance in this argument as well. Since, all the posts, upon which the petitioner has been posted and respondents No.4 to 10 have been posted; are of equivalent status, therefore, the seniority as such cannot estop the respondents from posting any person to any of these posts. Even if, some posts in the cadre is such which is required to report to another office under the charge of another officer in the same cadre, the said post also has to be manned by some person in the said cadre. That would, by no means, make the petitioner as junior to the Divisional Manager (Incharge). Still further, the petitioner has failed to point out any provision in any statutory regulations of the respondents that while making postings on interchangeable posts meant for one cadre, the respondents are required to keep seniority in view. Otherwise, the seniority is an irrelevant consideration for posting of the officers in a particular cadre, or upon the posts being interchangeable and equivalent. Needless to say that it is not the

case of the petitioner that the petitioner would be getting any lessor salary than anyone of the private respondents, by virtue of their current posting. Hence, the grievance of the petitioner is, obviously, totally imaginary and arising out of his misconception that his junior cannot be posted on a post which carries some higher responsibility, although in the same cadre.

In view of the above, finding no merits in the present petitioner, the same is hereby dismissed.

(RAJBIR SEHRAWAT)
JUDGE

07.05.2022
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No