

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

**CWP No.14255 of 2022 (O&M)
Date of Decision: 07.07.2022**

Thakur Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Sunny Singla, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for quashing the impugned orders dated 10.01.2022 (P-11 & P-12), whereby seniority lists of Senior Assistant (Group B) & Superintendent Gr.-II, respectively, are finalized. Further prayer is for quashing of the impugned order dated 18.04.2022 (P-15), whereby claim of the petitioner for promotion to the post(s) of Superintendent Grade-II/Superintendent Gr.-1 w.e.f. 05.05.1981 and 31.03.2000, has been rejected. Also prayed that respondent Nos.1 to 3 be directed to promote the petitioner from the date when his junior (respondent No.4) was promoted to the aforesaid posts along with all consequential benefits.

(2) Facts are not in dispute.

(3) On 20.02.1970, petitioner was appointed as Clerk; thereafter on 10.06.1975, he was promoted as Assistant and again on 20.09.1995, as Supervisor/Superintendent Gr.-II. Ultimately, on attaining the age of superannuation, he retired as such w.e.f. 31.08.2006 and present writ petition is filed on 25.05.2022.

(4) It is contended by learned Counsel for the petitioner that impugned seniority lists dated 10.01.2022 for the posts of Senior Assistants/Superintendents Gr.-II have been re-casted without inviting objections from the affected persons, including petitioner; thus, the same is not legally sustainable. Also contended that as per the earlier seniority lists, issued in the years 2017, 2019 & 2020, petitioner was senior to respondent No.4; but now, he has stolen a march without any basis.

(5) Heard learned Counsel for the petitioner and perused the paper-book.

(6) Concededly, petitioner was promoted to the post of Supervisor/Superintendent Grade-II w.e.f. 20.09.1995 and he retired from that post after attaining the age of superannuation on 31.08.2006. Present writ petition is filed after 16 years of his retirement and as on today, he has attained the age of 74 years. During his service tenure, he never raised any claim for promotion to the post of Superintendent Gr.-I for the reasons best known to him.

(7) Although, paper-book reveals that for seeking promotion to the posts of Superintendent Gr.-II/Superintendent Gr.-I, petitioner served a Legal Notice dated 09.07.2019 (P-9) from the date when respondent No.4 (R.D.Jindal) and one Piara Singh were promoted. Also born out that later on, he

filed CWP No.32989 of 2019 and which was disposed off vide order dated 25.02.2022 with the directions to consider his claim.

(8) In pursuance of the above order, his request was considered, but the same has been rejected vide order dated 18.04.2022 (P-15) and operative part of the same reads as under:-

“ And whereas the seniority of Sh. R.D.Jindal is concerned as per record, Sh. R.D.Jindal is senior to the petitioner as Clerk, Assistant/Senior Assistant, Supervisor/Superintendent Grade-II, as has been shown in re-casted seniority list circulated vide office order no. 08/2019/EA1/Admn./PB/114, dated 10.01.2022, and was subsequently promoted as Superintendent Grade-I vide Office order No.1774/A-1/Admn./PB, dated 31.03.2000. So, the petitioner being junior to Sh. R.D.Jindal cannot claim promotion before Sh. R.D.Jindal. So, as per record of this department, petitioner cannot claim seniority above Sh. R.D.Jindal and his claim is not acceptable.

And whereas the seniority/promotion of Sh. Piara Singh is concerned, Sh. Piara Singh (SC category) is junior to the petitioner as Clerk and Assistant/Senior Assistant, but being a SC category employee, he was promoted as Superintendent Grade-II/Supervisor against reserve point vide office order No.EA1/Admn./PB/460, dated 12.01.1994 and he joined on 12.01.1994 (F.N.) whereas the petitioner (Sh. Thakur Singh) was promoted as Supervisor/Superintendent Grade-II vide Office order No.15(95-96) EA1/Admn./PB/8391 dated 20.09.1995 and the petitioner joined on 26.09.1995. Sh. Thakur Singh is senior to Sh. Piara Singh (as Clerk and Assistant/Senior Assistant), and as per Punjab Government Circular letter No.8/5/2015-3PPI/42 dated 14.03.2017 regarding step up of the pay of senior general category employee at par with the junior reserve category employee who was promoted earlier – removal of anomaly, Sh. Thakur Singh is notionally promoted w.e.f. 12.01.1994 i.e. the date on which his junior reserve category employee Sh. Piara Singh was promoted as Superintendent Grade-II in the scale of Rs.2000-3500. He shall be deemed to have been

notionally promoted w.e.f. 12.01.1994 to 25.09.1995, and shall be given the benefit of pay fixation and other pensionary benefits. No arrears of pay etc. shall be paid to the petitioner from 12.01.1994 to 25.09.1995.

And whereas the promotion of the petitioner (Sh. Thakur Singh) as Superintendent Grade-I is concerned, the case for promotion as Superintendent Grade-I was taken up for filling up two vacant posts of Superintendent Grade-I in the scale of Rs.7220-11660. One post was reserved for SC candidate and one for general category. Sh. Raja Ram, Supervisor, who was a general category candidate was senior to Sh. Thakur Singh, was considered for promotion and was promoted vide office order No.10691/EA1/Admn./PB, dated 10.10.2001. And Sh. Piara Singh, who was junior to Sh. Thakur Singh as Clerk and Assistant/Senior Assistant and also a reserve category candidate, was considered for promotion on reserved post and was also promoted vide office order No.10691/EA1/Admn./PB, dated 10.10.2001. Sh. Raja Ram did not accept the promotion and was debarred for two years from promotion, as per Rule 18 of Punjab Civil Services (General and Common Conditions of Service) Rules, 1994 vide office order No.11930/EA1/Admn./PB, dated 05.12.2001. The next candidate after Sh. Raja Ram's refusal was Sh. Thakur Singh, who was not promoted as Superintendent Grade-I so his pay cannot be stepped up in the cadre of Superintendent Grade-I as the benefit of stepping up of pay in comparison with a reserved category, employee could be given only from the actual date of promotion in the cadre as per para 3(a) of Punjab Government Circular letter No.8/5/2015-3 PPI/42 dated 14.03.2017."

(9) Perusal of above extract reveals that in terms of order dated 10.10.2001, Sh. Raja Ram did not accept promotion for the post of Superintendent Gr.-I and consequently, he was debarred from promotion for two years; but petitioner never came forward for staking his claim for the reasons best known to him.

As on today, much water has flown; thus, at such a belated stage, there is no justification to entertain the claim of petitioner for promotion to the posts in question.

Moreover, the impugned seniority lists have already been acted upon while making further promotions of the members of service, therefore, unsettling the affairs would certainly cause prejudice to other affected persons, who are not even party to the *lis*.

(10) In view of the above, this Court does not find any ground to interfere with the impugned action of the official respondents under Article 226 of the Constitution.

As a result thereof, there is no option except to dismiss the petition.

Ordered accordingly.

(11) Pending application(s), if any, shall also stand disposed off.

July 7th, 2022
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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