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

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CWP-10742-2013

Date of decision : 29.08.2022

Seema Sharma

... Petitioner

Versus

Haryana State Electronics Development Corporation Ltd. and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Shekhar Verma, Advocate for the petitioner.

Mr. Pankaj Gupta, Advocate for respondents No.1 to 3.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the impugned orders (Annexures P-20, P-22 to P-25) whereby her claim for promotion to the post of Senior Receptionist-cum-PBX Operator w.e.f. 10.09.1991 from the date her juniors had been promoted, had been rejected.

Learned counsel for the petitioner submits that the petitioner has been victimized by the official respondents. She had been served several show cause notices from the years 1987 to 1991 just to deny her rightful claim for promotion. The official respondents in the impugned order have relied upon the show cause notices issued to the petitioner while the same had been set aside by the trial Court and therefore, they ought to have been ignored by the official respondents while considering the claim of the petitioner for promotion. He further submits that the respondents are now trying to justify their action by submitting that the ACRs of respondents No.4 and 5 were better

than the petitioner's ACRs but these ACRs were not communicated to her and she did not have the opportunity to challenge the same. She had been furnished the copies of her ACRs from 1987 to 1991 after she had preferred an application under the Right to Information Act, 2005.

Learned counsel for respondents No.1 to 3 submits that the case of the petitioner for promotion was re-considered on the basis of 'merit-cum-seniority' criteria in pursuance to the directions issued by this Court in RSA No.4858 of 2004 and as the record of respondents No.4 and 5 was better than the petitioner, the petitioner was not considered meritorious for promotion with effect from the date respondents No.4 and 5 were considered.

Heard.

The petitioner is stated to have joined as Receptionist-cum-PBX Operator on 09.05.1986 while respondents No.4 and 5 are stated to have joined on 26.05.1986 and 29.08.1986 respectively. The petitioner had been issued several show cause notices for various incidences of alleged mis-conduct. The official respondents vide order dated 10.09.1991 had promoted respondents No.4 and 5 to the post of Senior Receptionist-cum-PBX Operator. This order was challenged by the petitioner in the year 1994 by preferring a civil suit which had been decreed in her favour on 05.02.2002 (Annexure P-16). The official respondents had filed the first appeal thereagainst and thereafter filed RSA No.4858 of 2004 which was also dismissed. The SLP preferred thereagainst by the official respondents was remanded back on 05.05.2009 (Annexure P-18) with a direction to this Court to frame an issue with regard to the criteria for promotion as it had not been forthcoming as to whether the criteria for promotion is 'seniority-cum-merit' or 'merit-cum-seniority'. After the

remittance of the case, this Court in RSA No.4858 of 2004 on 23.08.2011 (Annexure P-19) had held that the criteria for promotion to the post of Senior Receptionist-cum-PBX Operator is merit-cum-seniority and the case was disposed of with a direction to the official respondents to consider the service record of the petitioner and respondents No.4 and 5 for their promotion on the criteria of merit-cum-seniority. The official respondents by the impugned order dated 03.02.2012 (Annexure P-20) while considering the service record and the ACRs have concluded that respondents No.4 and 5 were rightly promoted as Senior Receptionist-cum-PBX Operator on 10.09.1991 as they had a superior service record than the petitioner.

The details of ACRs of the petitioner and respondents No.4 and 5 w.e.f. 1987 to 1991 are set out in Para 4 of the written statement and the relevant extract thereof is reproduced hereunder:-

Sr. No.	Year	Seema Sharma (petitioner)	Santosh Kumari (respondent No.4)	Deveshwari Negi (respondent No.5)
1.	1986-87	Very Good	Good	Very Good
2.	1987-88	Good	Satisfactory	Good
3.	1988-89	Good	Good	Good
4.	1989-90	Good	Good	Very Good
5.	1990-91	Satisfactory	Outstanding	Outstanding

It is apparent from the perusal of ACRs for the preceding five years that respondents No.4 and 5 have better ACRs than the petitioner. The criteria for selection is 'merit-cum-seniority'. Respondents No.4 and 5 have been found to be more meritorious on the basis of their ACRs w.e.f. 1987 to 1991. None of the ACRs of the petitioner is adverse. She had earned only one 'Very Good' ACR and no 'outstanding' ACR in five years. Respondent No.4 has

one 'outstanding' ACR while respondent No.5 had two 'Very Good' ACRs along with one 'outstanding' ACR for the aforementioned five years. The petitioner has not sought the upgradation of the ACRs at any time. Even assuming that she had been informed about these ACRs in response to an application preferred by her under the RTI Act in the year 2012, she had not preferred any application or initiate appropriate proceeding for upgrading the same in the last ten years.

I am also not inclined to accept the contention of learned counsel for the petitioner that the show cause notices issued to the petitioner do not survive after the decree of the trial Court as they are not the basis of the rejection of her claim for promotion from a prior date. Her ACRs do not appear to have been recorded on the basis of the show cause notices as none of the ACRs are adverse.

In view of the above, I do not find any infirmity in the action of the official respondents in promoting respondents No.4 and 5 ahead of the petitioner as they had superior service record and the criteria for promotion is merit-cum-seniority.

Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

August 29, 2022
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No