

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

CWP-17089-2017 (O&M)

Date of decision: August 26, 2022

Ashok Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate for the petitioner.

Mr. R.K.S. Brar, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing order dated 16.06.2017 (Annexure P-9) whereby petitioner has been reverted from the post of Inspector, Food and Supplies to the post of Sub-Inspector, Food and Supplies revising deemed date of promotion to the petitioner with respect to the post of Clerk as well as Sub-Inspector, Food and Supplies.

2. Succinct factual background first. Petitioner was initially appointed with the respondent-Department on 08.09.1993 on contract basis as P.R.Chowkidar. Pursuant to State Government policy dated 01.10.2013, services of the petitioner were regularized on the said post vide order dated 25.08.2005 (Annexure P-1) w.e.f. 01.10.2003 and he was further granted regular pay-scale. Thereafter, petitioner was promoted to the post of Clerk vide order dated 09.02.2012 (Annexure P-2). Upon considering the representation of the petitioner, his services were regularized w.e.f. 13.01.1998 instead of 01.10.2003 vide order dated 07.11.2013 (Annexure P-3). Upon another representation of the

petitioner, vide order dated 29.07.2014 (Annexure P-5), seniority of the petitioner was revised and he was granted 09.09.2008 as deemed date of promotion to the post of Clerk i.e., the date from which his junior, namely Sh. Jai Singh, P.R. Chowkidar, Hisar was promoted as Clerk. Petitioner was promoted as Sub-Inspector, Food and Supplies vide order dated 14.08.2014 (Annexure P-6). He was granted 02.12.2013 as deemed date of promotion to the post of Sub-Inspector. Upon representation of the petitioner, vide order dated 15.11.2016 (Annexure P-7), his deemed date of promotion as Sub-Inspector was revised from 02.12.2013 to 27.01.2012 and he was granted consequential seniority as well. Thereafter, vide order dated 27.01.2017 (Annexure P-8), petitioner was promoted to the post of Inspector, Food and Supplies. Vide impugned order dated 16.06.2017 (Annexure P-9), promotion orders of the petitioner with respect to the posts of Clerk, Sub-Inspector and Inspector have been withdrawn and deemed dates of promotions have also been revised, on the ground that due to some clerical error, the seniority of the petitioner in the list of 10th pass Class-IV employees had wrongly been fixed. He has also been ordered to be reverted to the post of Sub-Inspector, Food and Supplies.

3. I have heard rival contentions of the parties and perused the record.

4. In the return dated 24.07.2019 filed on behalf of the respondents, following unequivocal stand has been taken in Para-6 thereof:-

“6. That the case of the petitioner was again scrutinized as it reveals that he was wrongly promoted as Sub Inspector in Food Department w.e.f. 02.12.2013 as the petitioner was entitled to be promoted as Sub Inspector w.e.f. 25.02.2016 and clerk w.e.f. 09.02.2012 instead of 02.12.2013. Hence to rectify the irregularities the promotion order to the post of Clerk, Sub Inspector and Inspector has been withdrawn by rectifying the dates on the promotional posts as stated above vide order dated 16.06.2017. Hence, the action taken by the answering respondent is just quite well, legal and fair. Thus the present writ petition deserves to be dismissed.”

5. What thus, emerges from the conceded facts as pleaded by the respondent is that the petitioner was indeed promoted from the post of Sub Inspector to the post of Inspector, but owing to some irregularities attributable to the Department itself, they had to pass the impugned corrective order re-fixing his deemed dates of promotions and seniority, which resulted in reversion of the petitioner.

6. Be that as it may, it is trite to say that demotion in service is not only stigmatic, but also once promotion is accorded, even if it is erroneous, the Department is bound to issue show-cause notice before passing any corrective orders. The respondents having not done so, impugned order dated 16.06.2017 (Annexure P-9) is set aside with liberty to the respondents to proceed in accordance with law after according due opportunity to the petitioner and in case, he wishes to be heard in person or through representative, the needful be done.

7. In the parting I may like to add herein that since vide interim order dated 03.08.2017 reversion was stayed, same shall continue to operate till passing of fresh orders by the Department if resorted to. In case, any adverse orders are passed, same shall not be implemented for 30 days in order to afford fair opportunity to the petitioner to seek his legal remedy.

8. Petition stands disposed of, accordingly.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 26, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No