

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

214

CWP-23419-2015

Date of decision : 29.09.2022

Kuldip Kumar

... Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. H.S. Saini, Advocate for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Ms. Neha Sharma, Advocate for respondents No.2 and 4.

Ms. Shaveta Sanghi, Advocate for respondent No.3.

Anupinder Singh Grewal, J. (Oral)

The petitioner is seeking promotion to the post of Mandi Supervisor-cum-Fee Collector from the date the post had fallen vacant.

Learned counsel for the petitioner submits that the petitioner, who was working as an Auction Recorder, was fully eligible for promotion to the post of Mandi Supervisor-cum-Fee Collector w.e.f. 01.04.2014, the date when the post had fallen vacant as he was the senior most eligible person at that time.

Learned counsel for respondent No.3, while referring to the reply filed by the respondents, submits that during the pendency of this petition, the petitioner has been promoted to the post of Mandi Supervisor-cum-Fee Collector on 29.02.2016, after following due procedure. A copy of the resolution is appended as Annexure R-2 along with the reply. She also submits that mere vacancy of a post would not give any right for promotion to the petitioner. She has relied upon the judgment of the Supreme Court in the case

of **Union of India and another versus Manpreet Singh Poonam etc., (2022)**
6 SCC 105.

Heard.

The petitioner was working as an Auction Recorder. He had been promoted to the post of Mandi Supervisor-cum-Fee Collector on 29.02.2016. It is not a case of the petitioner that any person junior to the petitioner had been promoted ahead of him. Merely because the post had fallen vacant and some time had passed while ordering the promotion would not give a right to the petitioner for promotion from the date the vacancy had arisen. The Supreme Court in the case of **Union of India and another versus Manpreet Singh Poonam etc.(supra)** has held that the promotion cannot be granted retrospectively and extended to give benefit and seniority from date of notional vacancy. Mere existence of vacancy per se will not create any right in favour of an employee for retrospective promotion.

In view of the above, I do not find any merit in the claim of the petitioner for retrospective promotion from the date the vacancy had arise.

Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

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