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

CWP-18354-2018

Date of Decision: 15.03.2022

Jagroop Singh Sidhu

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Salil Sabhlok, Advocate, for the petitioner.

Mr. Kannan Malik, AAG, Punjab.

Mr. Pardeep Bajaj, Advocate, for respondent No.2.

(Through Video Conference)

HARSIMRAN SINGH SETHI J. (ORAL)

In the present case, prayer of the petitioner is that his case for grant of promotion to the post of Publicity Officer, though approved by the President of the respondent-Board by granting relaxation to him, has not been given effect to by the respondents and the representation filed by the petitioner claiming the same has been rejected by the respondents vide impugned order dated 22.09.2017 (Annexure P-5). The challenge in the present petition is to the said order dated 22.09.2017.

Learned counsel for the petitioner argues that the petitioner was appointed as a Publicity Assistant on 29.08.1978, on which post, his services were regularized on 03.07.1979. Thereafter, he was promoted as a Publicity Supervisor on 10.12.2007. The eligibility criteria for promotion to the next post to Publicity Officer is that the same can be filled up by way of promotion from amongst the Publicity Supervisors working in the

respondent-Board, who possess the Degree of either the Bachelor of Arts or the Bachelor of Science from a recognized University and has a working experience of minimum period of five years on the said post. Learned counsel for the petitioner submits that though the petitioner did not fulfil the required eligibility criteria of having an experience of minimum period of five years of service as Publicity Supervisor but the President of the respondent-Board by exercising his powers under Rule 19 of the Punjab State Agriculture Marketing Board (Class II) Service Rules, 1988, granted relaxation to the petitioner in the said eligibility criteria and directed that the petitioner be promoted to the post of Publicity Officer.

Learned counsel for the petitioner argues that the petitioner retired from service on 31.03.2012 but the respondents did not implement the recommendation of the President of the respondent-Board of extending him the benefit of promotion to the post of Publicity Officer by the said date and ultimately, upon representation being filed by the petitioner claiming the said promotion, the respondents have rejected his said prayer by passing a cryptic order dated 22.09.2017 (Annexure P-5) that the said claim of the petitioner has been considered and rejected. The said order rejecting the claim of the petitioner for promotion is under challenge in the present petition.

Learned counsel for the petitioner further argues that once the competent Authority, i.e. the President of the Board, has exercised his jurisdiction under Rule 19 of the Punjab State Agriculture Marketing Board (Class II) Service Rules, 1988, which deals with the relaxation to be granted to the employees, and directed that the petitioner be promoted to the post of Publicity Officer, the petitioner has to be considered eligible for the said

promotion for all intents and purposes, and therefore, the rejection of his case for promotion to the post of Publicity Officer by the respondents, after his retirement is totally arbitrary and illegal and the respondents are liable to be directed to consider and promote the petitioner to the post of Publicity Officer with effect from the date when he was made eligible by the President of the respondent-Board by granting him relaxation, along with the consequential benefits.

Learned Counsel for the respondents submits that in fact the relaxation can only be granted by the competent Authority after recording appropriate reasons for the same and the said relaxation will only come into operation after approval to the same by the Government of Punjab. Learned counsel further submits that case of the petitioner is not covered by the Rules governing the concerned services either for the grant of promotion to the post of Publicity Officer or even for extending the relaxation in Service Rules in favour of petitioner.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a matter of law, Rules framed by the Authority has to be given effect while considering the claim of an employee for promotion. It is a conceded position that as of now, only an employee working on the post of Publicity Supervisor, who has an experience of minimum period of five years on the said post, can be considered for promotion to the post of Publicity Officer. The petitioner does not fulfil the said criteria at all and the petitioner retired from service much prior to the date when the petitioner was to attain the eligibility of having experience for a period of five years as Publicity Supervisor required for promotion to the post of the Publicity

Officer. That being so, there is no vested right with the petitioner to claim the promotion to the said post.

Even with respect to the argument that a competent Authority has jurisdiction to grant relaxation in the concerned Rules, which jurisdiction was exercised by the President of the Board, hence the petitioner becomes entitled for the grant of promotion to the post of Promotion Officer, the same cannot be accepted keeping in view the fact that the Rule 19 of the Service Rules, which deals with grant of relaxation, completely debars the Authority to grant relaxation in respect of the mandatory required experience. That being so, since present case of the petitioner relates to the grant of exemption/relaxation in the matter of experience, therefore, once the Rule itself makes it clear that no relaxation is to be granted in the matter of experience, there was no jurisdiction vested with the President of the respondent-Board to even consider the claim of the petitioner for the grant of promotion to the post of Publicity Officer by granting him relaxation in the eligibility criteria of experience.

Apart from this, even otherwise the relaxation recommended by the President of the respondent-Board will only attain finality after the same is approved by the Government of Punjab, which is clear from the bare reading of the Rule 19 of the Punjab State Agriculture Marketing Board (Class II) Service Rules, 1988, which deals with the relaxation. In the present case, there is no approval of the Government to the proposed relaxation by the President of the Board, and therefore, merely on the proposal of the President of the Board, the petitioner cannot claim the said relaxation in respect of the minimum experience.

Keeping in view the above, no interference is called for in the

order dated 22.09.2017 (Annexure P-5), passed by the respondents.

Dismissed.

15.03.2022

Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes