

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

CWP-33272-2019 (O&M)
Date of decision: 24.03.2022

SHISYA PAL SETHI @S.P. SETHI	...Petitioner
V/S	
STATE OF HARYANA AND OTHERS	...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ashish Aggarwal, Senior Advocate with
Mr. Jagdish Manchanda, Advocate,
for the petitioner.

Mr. Sharan Sethi, Additional A.G., Haryana.

None for respondent No. 3.

ARUN MONGA, J. (ORAL)

Instant writ petition was filed sometime on or about 14.11.2019 *inter alia* seeking issuance of a writ in the nature of Certiorari to quash an order dated 13.11.2019 (Annexure P-25) whereby, private respondent No.3 was promoted to the post of Chief Engineer, whereas petitioner's claim for the same was not entertained despite his assertion that as per the seniority list (Annexure P-24) prepared by the Department, he was senior to private-respondent No.3.

2. Further, consequential relief has also been sought seeking issuance of a writ in the nature of Mandamus directing the respondents to also promote the petitioner to the post of Chief Engineer in terms of aforesaid seniority list circulated by the Public Health Engineering Department. Reliance is placed on Section 9(3) (b) of the Haryana Service of Engineers, Group A, Public Health Engineering Department

has to be kept with the Public Health Department for the period he was physically not serving in the said Department. Hence his claim has to be considered on the promotional post of Executive Engineer followed by the Superintending Engineer and if calculated accordingly, respondent No.3 was way more junior to the petitioner. In terms thereof, petitioner ought to have also been accorded promotion as Chief Engineer.

3. Be that as it may, the claim of the petitioner was not considered and in the return filed by the respondents, following stand has been taken in the preliminary submissions: -

“4. That one Sh. Ishwar Jain the then Superintendent Engineer (now Chief Engineer) has filed a CWP No.874 of 2019 in the Hon’ble High Court and this writ petition came up proceeding on 15.01.2019 and Hon’ble Court passed an interim order to maintain status quo with regard to promotion to the post of chief Engineer. This writ petition was dismissed as withdrawn on 01.10.2019. In the meanwhile, another CWP No.25400 of 2019 titled as Pradeep Kumar and others Vs. State of Haryana and others was also filed in the Hon’ble High Court in which the petitioner was impleaded as respondent No.3. This writ petition came up for hearing on 11.09.2019 and the Hon’ble Court was pleased to pass an interim order in terms of interim order passed in CWP No.874 of 2019. This writ petition is still pending in the Hon’ble Court and fixed for hearing on 11.05.2020 and interim order regarding to maintain status quo qua promotion is still in operation and as such petitioner cannot be considered for further promotion. Therefore, this civil writ petition is liable to be dismissed.”

4. Over a period of time, not only the petitioner has retired but in the interregnum, even the private-respondents too have retired. As regards the aforesaid writ petitions, which seemed to have hindered the decision qua the promotion at the relevant time, and were dismissed as

No.25400-2019 and order dated 01.10.2019 passed in CWP 874 of 2019. Resultantly, interim order passed therein also stood vacated by virtue of dismissal of the writ petitions.

5. In the premise, it appears that the official respondents are now at liberty to proceed as per the merits of the case and consider the claim of the petitioner in accordance with law and pass further appropriate administrative orders.

6. Accordingly, without commenting on the merits of the claim of the petitioner, writ petition is disposed of. It is expected of the official respondents to pass appropriate administrative orders, as expeditiously as possible, but not later than six months from today.

24.03.2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No