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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2023:PHHC:129198
CWP-1691-1997
Date of Decision: 05.10.2023

Satnam

...Petitioner

Vs.

The Director Agriculture, Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. R.D. Bawa, Advocate for the petitioner.

Mr. D.K. Singal, Addl. AG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this writ petition has challenged his placement in the seniority list in respect of service rendered by him from 1970 to 1979, resulting in the petitioner being denied his promotion.

2. Learned counsel for the petitioner submits that the petitioner was initially appointed on 16.01.1968, as Beldar, at District Gurdaspur. Thereafter he was transferred from Soil Conservation Scheme to ARC Scheme, at Gurdaspur, which was converted to Ground Water Cell Scheme at Gurdaspur. In the seniority list which was published on 18.04.1974, his name was correctly shown at Sr. No.31, mentioning the date of appointment as 16.01.1968 and he was further transferred to Ground Water Cell Scheme on 20.05.1974 at Gurdaspur. On 17.07.1979, the petitioner was transferred from Ground Water Cell Scheme to other works of the Agriculture Department, under the Chief Agriculture Officer, District Gurdaspur. The headquarter of

the Ground Water Cell Scheme was at Kapurthala, but the petitioner remained posted at Batala, District Gurdaspur. On 16.05.1990, the respondents furnished fresh seniority list, wherein, the petitioner's date of appointment was shifted from 16.01.1968 to 17.07.1979 and thereafter the respondents promoted sixteen persons to the post of Agriculture Sub Inspector vide order dated 23.05.1990 but the candidature of the petitioner was not considered, whereas the persons who were appointed in the year 1970 onwards, had been considered for promotion. In the said circumstances, the petitioner has preferred this writ petition praying that his seniority should be restored from the date of his initial appointment and consequential benefits of promotion should also be granted to him.

3. Per contra, learned counsel appearing on behalf of the respondents stated that the petitioner was appointed on 16.01.1968 on *ad-hoc* basis and was regularized w.e.f. 05.02.1970. He was transferred from the post of Beldar under the control of District Agricultural Officer, Gurdaspur w.e.f. 20.06.1970 and was further transferred under the Assistant Geologist, Kapurthala, w.e.f. 28.02.1974. While the petitioner was under the Assistant Geologist, Kapurthala, he submitted an application on 21.05.1979, to the Chief Agricultural Officer, Gurdaspur, requesting for mutual transfer to Qadian, under the control of the Chief Agricultural Officer, Gurdaspur. Upon his request, the petitioner was transferred on 08.06.1979. On the joining report submitted by the petitioner, he mentioned that he will forgo his seniority. As the seniority list was required to be prepared district-wise and the petitioner was earlier posted at Kapurthala and had upon mutual transfer

been posted at Gurdaspur, the earlier seniority list was required to be foregone.

4. Learned counsel for the respondents submits that the seniority list as issued in the year 1995 mentions the period only from the year 1979, without counting his earlier period of service, which he has forgone while seeking mutual transfer.

5. Learned counsel for the petitioner vehemently argues that in so far as the petitioner is concerned, he at all point in times remained in District Gurdaspur. Although the scheme had headquarters located at Kapurthala, the petitioner continued to be posted at Batala, from where, he requested for mutual transfer to Qadian, which was accepted by the respondents. Learned counsel by referring to the judgment passed by the High Court in CWP-13555 of 1992, titled decided on 24.08.1995, holding the seniority to be prepared district-wise, also mentions that the seniority of persons, who were in the same district under several schemes will have to be treated as one cadre and accordingly, even if the petitioner was posted at Batala, under the Ground Water Cell Scheme, which had headquarter at Kapurthala, his seniority would be treated in the cadre of persons at Gurdaspur, as the petitioner since the beginning was appointed at Gurdaspur and even after mutual transfer remained in District Gurdaspur. Therefore, his entire seniority from the date of initial appointment is required to be counted and the request for mutual transfer would not effect in forfeiting his service for the period from 1968 to 1979.

6. Learned counsel further objected by pointing out that the petitioner himself not only gave up his seniority while he made a request for

mutual transfer but also he was fully aware that he was being transferred from District Kapurthala to Gurdaspur. It is also stated that in the order of transfer dated 08.06.1979, directions have been issued to the Geologist concerned of Ground Water Cell, Kapurthala to relieve the Beldar i.e. the petitioner.

7. In view thereof and considering the provisions of foregoing of seniority after making request for transfer, learned counsel submits that the petitioner is now stopped to claim otherwise.

8. I have considered the submission.

9. As is apparent from Annexure R/3 placed on record, the petitioner in his own handwriting has foregone his seniority knowing fully well that he has been transferred from one district to another. The contention raised by the petitioner now that he was actually posted at Batala does not have any basis, more so, as he has been relieved upon seeking mutual transfer, from Kapurthala. Even in the application vide which the petitioner has applied for mutual transfer, there is a note of sending a copy to the Assistant Geologist, Kapurthala, for information.

10. In view thereof the petitioner's contention is found to be without basis. The further contention of the learned counsel for the petitioner based on the observation of the High Court in CWP-13555 of 1992, is not applicable to the facts of the present case as Ground Water Cell Scheme is a separate wing governed by Assistant Geologist, from where the petitioner transferred on his request to the Horticulture Inspector office of the Agricultural Department, at Qadian. The petitioner was in full knowledge that as a consequence of his request for mutual transfer, he would lose his

seniority and now he cannot be allowed to turn around especially after taking the benefit of transfer on his own request and claim some previous period of service for seniority and promotion.

11. Writ petition is misconceived and is accordingly dismissed.
12. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

05.10.2023.
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No