

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(248)

CWP No. 2729 of 1996

Date of Decision : 07.08.2023

Shyambir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. B.R. Rana, Advocate for the petitioner.

Mr. Tapan Kumar Yadav, Deputy Advocate General,
Haryana.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed challenging the order dated 21.04.1995 (Annexure P-13) by which, the prayer of the petitioner that his appointment to the post of Cluster Supervisor be treated as a promotion instead of fresh appointment so as to give him the benefit of the period for which, the petitioner was working as a Bull Attendant while fixing his salary and other benefits has been rejected.

The facts, which have come on record are that the petitioner was selected through employment exchange and was appointed as a Bull Attendant in the respondent-department on 10.12.1980. While working on the said post, the petitioner undertook a short duration course so as to learn the duties of the post of Cluster Supervisor and after completing the

said course, the petitioner demanded that he be promoted to the post of Cluster Supervisor.

The claim of the petitioner for promotion was considered by the department and the petitioner was informed on 25.05.1988 that there is no rule giving promotion from the post of Bull Attendant to that of a Cluster Supervisor, hence, as and when the said post of Cluster Supervisor will be advertised to be filled by way of direct recruitment, the petitioner can participate.

Thereafter, the post of Cluster Supervisor was advertised and after considering the claim of various persons, the petitioner was appointed on temporary basis as a Cluster Supervisor along with other candidates. It may be noticed that along with the petitioner, there were four other persons, who were also appointed on the post of Cluster Supervisor and they were posted at the different stations.

Petitioner filed representation with the respondents that his appointment as a Cluster Supervisor be treated as a promotion so as to grant the petitioner the benefit of the service period, which the petitioner had rendered as a Bull Attendant for fixing his salary in the Cadre of Cluster Supervisor. The said claim of the petitioner has been rejected by the respondent vide impugned order dated 21.04.1995 (Annexure P-13), which order is under challenge in the present petition.

Learned counsel for the petitioner argues that once the petitioner had already undergone a selection process for appointment to the post of Cluster Supervisor, the benefit of temporary appointment as

Cluster Supervisor should be treated as a promotion from the post of Bull Attendant so as to give the benefit of period for which the petitioner was working as a Bull Attendant qua the fixing of his salary etc. in the cadre of Cluster Supervisor, especially, in view of the fact that there is no gap in the service rendered by the petitioner in these two cadres.

Learned counsel for the respondents, on the other hand, submits that once there was no rule to grant a promotion from the post of Bull Attendant to that of Cluster Supervisor and the claim of the petitioner had already been rejected qua the same vide order dated 25.05.1988 (Annexure P-8), no grievance can be made by the petitioner.

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

In order to claim a promotion to a particular post, there has to be a rule, which gives a right to an employee to claim the said promotion. Learned counsel for the petitioner conceded the fact that there is no such rule, by which promotion can be granted to the post of Cluster Supervisor to the employees, who were discharging their duties as Bull Attendants. That being so, no benefit of promotion can be given to the petitioner as being claimed in the present petition.

Even otherwise, in the present case, after competing with all eligibles, the petitioner was appointed as a Cluster Supervisor. The said appointment was a fresh appointment, hence, considering the said appointment as a promotion, cannot be permitted. Therefore, once the petitioner had accepted the fresh appointment as a Cluster Supervisor, he

is only entitled for the benefit under the terms and conditions of the said appointment and not otherwise as being claimed in the present petition.

No ground is made out for any interference in the facts and circumstances of the present case.

Dismissed.

August 07, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No