

387

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2406-1997 (O&M)

Date of Decision: 05.10.2023

PRABJIT SINGH

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present Mr. Paramjit Singh Goraya, Advocate,
for the petitioner.

Mr. D.K. Singal, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

1. The petitioner by way of this Writ Petition challenges order dated 22.11.1996, whereby respondent No.4 was temporarily promoted as Superintendent in the pay scale of ₹2000-3500 while ignoring the petitioner.

2. Learned counsel for the petitioner submits that the petitioner was senior to respondent No.4-Vijay Kumar. The petitioner joined as Stenographer on 31.01.1983 by way of direct recruitment and was therefore senior to respondent No.4, who joined as Clerk on 21.04.1979 and was promoted as Accountant on 21.02.1988.

3. Learned counsel for the petitioner submits that the petitioner had an absolutely clean record and he is, therefore, entitled for promotion instead of respondent No.4 .

4. From the perusal of order dated 22.11.1996, this Court finds the same to be a speaking order which mentions about all the aspects and considerations made by the appointing authority while granting promotion

to respondent No.4. It has been stated that respondent No.4 was serving in the Agency as a Clerk w.e.f. 21.04.1979, promoted as Accountant on 21.02.1988, and was discharging duties of Superintendent since 09.01.1994. While the petitioner was appointed directly as a Stenographer on 31.01.1983, the promotion was awarded to respondent No.4 as he was holding additional charge of the post of Superintendent and the latest reports of service were in his favour and he was found to be the fittest person to be promoted as Superintendent.

5. In the reply filed on behalf of respondents No.1 and 2 also, the respondents have stated that the model code of conduct was not in operation on the day when the order dated 22.11.1996 was passed. While in the reply filed on behalf of respondent No.3, it has been further stated that the service records of the petitioner and that of respondent No.4 were compared and it was noticed that respondent No.4 had earned 1 “Good”, 7 “Very Good” and 3 “Outstanding” ACRs whereas the petitioner had earned 2 “Average” and 1 “Good” and 3 “Very Good” and 5 “Outstanding” ACRs. Thus, the official respondents had considered respondent No.4 as a better meritorious person and the fittest candidate for the said promotion.

6. I have considered the submissions of learned counsel for the parties.

7. The promotion to the post of Superintendent is made amongst the Accountants or Stenographers having 5 years of experience in the Agency. As per Regulation 3.13 of the Service Regulations, all promotions to the post in service shall be made on the basis of merit-cum-seniority and no person shall have a right to any post on the basis of seniority alone.

Thus, merit has to be given more supremacy over and above the *inter se* seniority.

8. In view of the above, this Court finds that the official respondents have conducted a fair and transparent exercise in relation to the impugned promotion and passed the order promoting respondent No.4 after due application of mind and after considering the candidature of the petitioner. Thus, it is not the case of ignoring the candidature of the petitioner as claimed by him in this Writ Petition and this Court would not substitute its opinion to that of the concerned promoting authority.

9. Hence, no case for interference of this Court is made in this Writ Petition. The Writ Petition is **dismissed** accordingly.

10. All pending applications shall stand disposed of accordingly.

October 5, 2023
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes/No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>