

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(105)

CWP No.5751 of 2020

Date of Decision : 18.08.2023

Rajpal Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Daman Dhir, Advocate with
Ms. Poonam Rani, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed for the grant of consequential benefits with respect to the retrospective promotion which has been granted to the petitioner to the post of Superintendent and also quashing of the order dated 17.10.2018 (Annexure P-23) by which the said benefit has been declined.

Learned counsel for the petitioner argues that the petitioner was granted retrospective promotion in the cadre of Superintendent by changing his seniority from Sr. No.24 to Sr. No.17 in the cadre of Assistant and hence, the petitioner was entitled for not only the retrospective promotion but also the consequential benefits of arrears of salary upon on the said retrospective promotion hence, the order granting the retrospective promotion without the

consequential benefits is totally arbitrary and illegal and the order dated

17.10.2018 granting the promotion to the petitioner to the post of Superintendent with retrospective effect, should also include the consequential benefits such as arrears of salary along with interest.

I have heard learned counsel for the petitioner and have gone through the record of the case with his able assistance.

It is a conceded position that keeping in view the impugned order, the seniority of the petitioner in the cadre of Assistant has been changed from Sr. No.24 to Sr. No.17 due to which, the benefit of retrospective promotion in the cadre of Superintendent has been granted.

As per the settled principle of law settled by the Hon'ble Supreme Court in in Civil Appeal No.2415 of 1996, titled as **State of Haryana Vs. OP Gupta etc.** decided on 12.01.1996, wherein it has been held that where the retrospective promotion is due to the recasting of the seniority, the arrears of the salary cannot be granted from the deemed date of the promotion and principle of no work no pay will apply and order passed by this Court granting the said benefit was set aside. The relevant paras 9 and 10 of the judgment are as under:

“In these appeals unless the seniority list is prepared and finalised and promotions are made in accordance with the Rules on the basis of the above seniority list, the question of entitlement to work in the promotional posts does not arise. Consequently, the payment of arrears of salary does not arise since, admittedly the respondents had not worked during that period. The High Court was, therefore, wholly illegal in directing payment of arrears of salary. The order of the High Court accordingly is quashed.

The appeals are accordingly allowed.”

Learned counsel for the petitioner has not been able to dispute that the facts and the question of law raised in the present petition are covered

against him as per the judgment of the Hon’ble Supreme Court in **OP Gupta (supra)**.

Keeping in view the above, no ground is made out for any interference by this Court with the impugned order.

Dismissed.

August 18, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No