

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

**CWP-9586 of 1996 (O&M)
Date of Decision: 09.08.2023**

Harbax Singh

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Prabhsher Singh Walia, Advocate
for the petitioner

Mr. R.K.Kapoor, Addl., A.G., Punjab with
Mr. Charanpreet Singh, AAG, Punjab

SANJEEV PRAKASH SHARMA, J (ORAL)

The present petition has been filed for quashing of order dated 26.4.1996. The learned counsel relied on the judgement passed in a similar case of *Sukhdev Singh Randhawa Vs. State of Punjab* decided by the Coordinate Bench of this Hon'ble Court in **CWP No.8592 of 1996** on 19.05.2009 whereby the same order was challenged and this Court passed the following order:-

Vide order dated 14.06.1986, Annexure P-2, the petitioner was promoted as Assistant Public Relations Officer in the grade of Rs.620- 1200/-. The petitioner was, however, reverted vide order dated 15.06.1987, Annexure P-3. The petitioner has challenged the order of reversion in CWP No.3727 of 1987 in which reversion order was stayed on 29.06.1987. The writ petition, however, came to be disposed of vide order dated 11.01.1988 in view of the withdrawal of the reversion order. The petitioner, thereafter, continued to work on the promotional post. The respondents passed the impugned order dated 26.04.1996, Annexure P-8, whereby the order of promotion dated 14.06.1986 promoting the petitioner as Assistant Public Relations Officer, has been withdrawn. It is stated that this order has been withdrawn pursuant to the decision of the Court of Senior Sub Judge,

Sangrur and Sub Judge Ist Class, Ferozepur and also the order passed in CWP No.490 of 1993 decided on 30.05.1995. The same is the stand in the reply filed. Copies of the orders passed in Civil Writ Petition No.490 of 1993, Senior Sub Judge, Sangrur and Sub Judge Ist Class, Ferozepur are on record. A civil suit was filed by one Narinder Singh challenging the promotion of the petitioners as Assistant Public Relations Officer with a further plea to promote the plaintiff in the suit as Assistant Public Relations Officer with effect from the date persons junior to him were promoted. Admittedly, present petitioner was defendant No.6 in the said suit. The said suit was decreed by the Senior Sub Judge, Sangrur, vide its judgment and decree dated 24.04.1990 with the following observations:-

“ 18. As a result of my findings on the above issues, I pass decree for declaration that plaintiff as of right should have been considered for promotion as Assistant Public Relations Officer in the scale of 620-1200 with effect from 14.6.1986 when his juniors i.e. defendant No.3,5, and 6 were promoted as Asstt. Public Relations Officer vide impugned order dated 14.6.86 copy of which is ex. P.18 in favour of plaintiff and against all defendants with costs of the suit. D/sheet be made and file be consigned.”

From the aforesaid judgment and decree, it appears that the promotion of the petitioner herein (defendant No.6 in the suit aforesaid), was not set aside. The only direction issued by the Court of Senior Sub Judge, Sangrur, was to promote the plaintiff in the suit as Assistant Public Relations Officer with effect from the date the defendants in the suit were promoted as such. Thus, the ground in the impugned order that the promotion of the petitioner is being withdrawn on the basis of the order passed in the aforesaid civil suit, is totally unwarranted. Similarly, the other ground of passing the impugned order is the direction issued in CWP No.490 of 1993. Some of the employees including Narinder Singh, who was a plaintiff in the aforesaid suit, filed the aforesaid writ petition, challenging the order dated December 17, 1992, with a further prayer for their own promotion to the post of Assistant Public Relations Officer with effect from 26.02.1990. This writ petition came to be dismissed vide judgment dated May 30, 1995. It is relevant to notice that the promotion order of the petitioner was not under challenge in this petition nor the petitioner herein was a party to the said writ petition. The very basis of the passing of the impugned order is fallacious and is non-existent. The petitioner's reversion in the year 1987 was challenged in this Court and later the order of reversion was withdrawn-meaning thereby that the promotion of the petitioner in the year 1986 was up-held.

In view of the above circumstances, the impugned order is not sustainable in law and is liable to be quashed. I order accordingly. As a

consequence of the quashment of the reversion order, the petitioner shall be entitled to all consequential benefits. No costs.

The order passed by the Coordinate Bench was challenged in **LPA No.1316 of 2009** in ***State of Punjab Vs. Sukhdev Singh Randhawa*** and this Court while deciding the same observed as under:-

1. In the present L.P.A., order impugned is dated 19.5.2009 passed by learned Single Judge in CWP No.8592 of 1996 quashing the order dated 26.4.1996 (Annexure P-8), whereby the order of promotion dated 14.6.1986 promoting the petitioner (herein respondent) as Assistant Public Relations Officer, was withdrawn.

2. The brief facts of the present case are that petitioner/respondent was promoted as Assistant Public Relations Officer in the Grade of Rs.620-1200 vide order dated 14.6.1986. Thereafter, petitioner/respondent was reverted vide order dated 15.6.1987. The petitioner/respondent challenged the order of reversion dated 15.6.1987 by filing a writ petition bearing CWP No.3727 of 1987. Meanwhile, the reversion order was withdrawn and CWP No.3727 of 1987 was disposed of vide order dated 11.1.1988 having recorded that reversion order has been withdrawn. Thereafter, the petitioner continued to work on the promotional post till 26.4.1996 when order impugned in the writ petition was passed.

3. We have heard learned Counsel for the appellants and perused the record.

4. Learned Counsel for the appellants argues that impugned order dated 26.4.1996 withdrawing the promotion order dated 14.6.1986 was passed, in view of the decision of the Civil Court dated 24.4.1990 and on the basis of the order passed by this Court in CWP No.490 of 1993.

5. In CWP No.490 of 1993 which was dismissed vide order dated 30.5.1995, writ petitioner was not a party nor his promotion order was under the challenge. However, petitioner was a party in Civil Suit filed by Giani Narinder Singh, as defendant No.6. Judgment/decree dated 24.4.1990 passed by learned Civil Judge reads as under:-

“18. As a result of my findings on the above issues, I pass decree for declaration the plaintiff as of right should have been considered for promotion as Assistant Public Relations Officer in the scale of Rs.620-1200 with effect from 14.6.1986 when his juniors i.e.

defendants No.3, 5 and 6 were promoted as Assistant Public Relations Officer vide impugned order dated 14.6.1986 copy of which is Ex.P-18 in favour of plaintiff and against all defendants with costs of the suit. D/sheet be made and file be consigned.”

6. *From the perusal of the judgment/decreed dated 24.4.1990 (supra), we find no direction was issued by the Civil Court to cancel/revoke the promotion order of the petitioner. The only direction issued by the Civil Court is to consider the right of the plaintiff for promotion as Assistant Public Relations Officer in the grade of Rs.620-1200 w.e.f. 14.6.1986.*

7. *We are of the view that neither in CWP No.490 of 1993 nor in the Civil Suit, any direction was issued to cancel/revoke the promotion order of the petitioner. Hence, basis of the revocation order is neither justified nor legal. Learned Single Judge has rightly quashed the order canceling the promotion. We find no illegality or error in the order passed by learned Single Judge.*

8. *For the reasons recorded above, the appeal being devoid of merit, must fail, and the same is dismissed with no order as to costs.*

In view of the above, the learned Counsel appearing for the State does not object to the aforesaid adjudication having been passed with regard to the same order dated 24.04.1996.

In view of the above, the present writ petition also stands allowed in the aforesaid terms.

(SANJEEV PRAKASH SHARMA)
JUDGE

9.8.2023
Raman

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No