

2023:PHHC:093393

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CWP-8715-2023 (O&M)
Date of Decision:24.07.2023

Sucha Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Vijay Lath, Advocate for the petitioner.

Mr. Pankaj Middha, Addl. A.G. Haryana.

HARSIMRAN SINGH SETHI J.(Oral)

1. The present petition has been filed challenging the order dated- 20.07.2022 (Annexure P-4) by which, reply has been given by the respondents to the legal notice served to them by the petitioner.
2. Certain facts may be noticed for the correct appreciation of the issue in hand.
3. The petitioner was working on a Class-IV post of Fitter Helper and claims that vide order dated 19.11.2009 he was promoted as Pipe Fitter Grade-II in a pay band of Rs.5200-20200 on which post, the petitioner was entitled for fixation of its retiral benefits whereas, the petitioner is only being given pension considering him as a Fitter Helper, hence the respondents are under obligation to refix the pension of the petitioner with all consequential benefits by giving him benefit of promotion on the post of Pipe Fitter vide Annexure P-1 dated 19.11.2009.

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

5. Before proceeding further, it may be noticed that the post of Fitter Helper/ Fitter Coolie is a Class-IV post and a post of Pipe Fitter Grade-II, is a Class -III post. The retirement age of a Class-IV employee is 60 years whereas the retirement age of Class-III employee is 58 years

6. Concededly, in the present case, the petitioner has continued in service upto the age of 60 years and retired from service after attaining the age of superannuation on 30.10.2012, hence the grievance of the petitioner is to be addressed.

7. Keeping in view the said facts, the claim of the petitioner is that though he was promoted on the post of Pipe Fitter vide order dated 19.11.2009 but his pensionary benefits is being given for the post of Fitter Helper/Fitter Coolie i.e. the Class-IV post. The respondents on the other hand, while replying to the legal notice, have mentioned that the petitioner never joined on the promoted post so and he continued working on a Class-IV post as then he would have got two more years of service before attaining the age of superannuation at the age of 60 rather than at 58 years if he would have accepted promotion to Class-III post. As per the respondents, not only the petitioner never joined the promotional post after promotion but neither he gave any representation claiming promotion while he was in service after the order of promotion was passed on 19.11.2009 though he remained in service upto the year 2012 and the present claim has only been raised after a period of 10 years of his retirement which clearly shows that the claim raised in the petition is not justifiable.

8. From the perusal of the record it is clear that nothing has come on record that the petitioner has joined on the promoted post or was prevented in any manner so as to join class III post in pursuance to the order dated 09.11.2009. Once no record has been brought to the notice of this Court that either petitioner joined the promotional post any time before his retirement or was prevented from joining the said post in any manner or the petitioner ever agitated qua not joining on the promotional post while he was in service, the same cannot be agitated after 13 years of the said order, especially when more than 10 years have elapsed since petitioner retired.

9. Even otherwise, the retirement age of the petitioner would have been different had the petitioner availed the benefit of promotion effected vide order dated 09.11.2009 and the petitioner would have retired in the year 2010 whereas it is a conceded position that the petitioner attained the age of superannuation in the year 2012 at the age of 60 which clearly shows that the petitioner remained working on a class -IV post from which he retired and that too without raising any grievance qua the promotion order dated 09.11.2009.,

10. Hence, keeping in view the facts and circumstances mentioned hereinbefore especially that nothing has been brought to the notice of this Court that the petitioner ever joined on the promoted post or was prevented in any manner to join the promotional post, and raising the grievance after a period of 10 years of retirement, the said grievance cannot be entertained at such belated stage.

11. Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

24.07.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No