

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

**LPA-493-2023 (O&M)
Date of Decision: 29.04.2023**

SUKHDEV SINGH

...Petitioner

Vs.

STATE OF PUNJAB AND OTHERS

...Respondent

**CORAM: - HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE SANJIV BERRY**

Present: Mr. K.P.S. Sandhu, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, DAG Punjab.

M.S. RAMACHANDRA RAO, J. (Oral)

CM-1338-LPA-2023

This application is filed by the appellants seeking condonation of delay of 67 days in filing the appeal.

Notice of the application.

Mr. Abhaypal Singh Gill, DAG, Punjab, accepts notice on behalf of the State-respondents and states that he has no objection if the said delay of 67 days is condoned.

Having regard to the reasons assigned in the application and having regard to the fact that State counsel for the respondents has no objection if this application is allowed, this application is allowed and the delay of 67 days in filing the accompanying appeal is condoned.

LPA-493-2023

The appellant had filed the said writ petition seeking promotion as Junior Assistant from the post of store keeper-cum-Clerk in terms of the government policy dated 15.12.2011 (Annexure P-1).

The appellant had given a representation on 20.12.2021 to the 3rd respondent seeking such promotion, and since the same had not been responded to by the 3rd respondent, he approached this Court by filing CWP-15106-2022

Learned Single Judge dismissed the writ petition stating that the date of promotion has to be decided by the appointing authority and an employee cannot force the appointing authority to promote him from a particular date.

Challenging the same, this appeal has been filed.

Heard learned counsel for the parties.

No doubt, no employee can claim promotion as a matter of right but he certainly has a right to be considered for the promotion as per the various decisions of the Supreme Court in that regard.

Since the request of the applicant vide Annexure P-3 has not been responded to by the 3rd respondent, he had approached the Court for consideration of the same.

Though he had sought a Writ of Mandamus to the respondent to promote him as Junior Assistant, and he may not be entitled to the said relief in the writ petition, he is certainly entitled to a direction for consideration of his request for promotion made through Annexure P-3.

Therefore, we are of the view that learned Single Judge should have granted him this relief instead of dismissing the Writ petition.

Accordingly, the order dated 12.01.2023 passed in CWP No. 15106 of 2022 is set aside and the respondents are directed to consider appellant's request for promotion as Junior Assistant made vide Annexure P-3 within 6 weeks and convey the decision to the appellant.

The appeal is allowed.

(M.S. RAMACHANDRA RAO)
JUDGE

(SANJIV BERRY)
JUDGE

29.04.2023
kv/kanika

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