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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12940-2022 (O&M)

Date of Decision: 02.03.2023

Joginder Pal

.. Petitioner

Vs.

Cantonment Board Jalandhar and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Yagyadeep, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

This writ petition has been filed under Article 226 Constitution of India for issuance of a writ in the nature of Mandamus directing the respondents to promote the petitioner to the post of Revenue Superintendent, with all consequential benefits, as the post has been lying vacant and the petitioner is the senior most employee in the feeder cadre.

Learned counsel for the petitioner has argued that the petitioner joined the post of Clerk in the year 1987 by direct recruitment in the Cantonment Board, Jalandhar, who was later on promoted to the post of Tax Inspector vide order dated 06.12.2017 (Annexure P-1). Subsequently, the petitioner was posted on different posts of Assistant and Cashier on different seats as these posts are same in nature. Learned counsel submits that the post of Octroi Superintendent, which is now Revenue Superintendent has been declared as a selection post, therefore, the respondent-board is competent to promote the petitioner to the said post.

He has drawn the attention of the Court to the draft revised seniority list of

the office staff of Jalandhar Cantonment Board to contend that the petitioner

being at No.7 is the only employee, who is waiting for the promotion for the post of Revenue Superintendent and the said post is lying vacant. He submits that all the employees senior to the petitioner have either retired or have been promoted and he being senior most in the feeder cadre deserves to be promoted for the post of Octroi Superintendent (now Revenue Superintendent).

After hearing the learned counsel and analyzing the facts and circumstances of the case, this Court is of the considered opinion that promotion to a higher post cannot be construed as a vested right of the employee, even though the post is lying vacant. It is not the case of the petitioner that the juniors to him have been considered or promoted without considering him for the promotion as the promotional post remained unfilled. Merely, because the department has chosen not to fill the vacant post by way of promotion, it alone would not give a valid cause of action to the employee to seek indulgence of this Court.

Admittedly, the petitioner already stands superannuated from his post of Tax Inspector on 31.05.2022 and the petition was filed by him on the day of his retirement, therefore, this Court is not inclined to exercise the extraordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

02.03.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No