

CM-15239-CWP-2023 in/&
CWP-14887-2012 & connected cases -1-

2023:PHHC:120179

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102+204 (02)

CM-15239-CWP-2023 in/&
CWP-14887-2012
Date of Decision :-13.09.2023

Satyawan Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

(2) CWP-361-2010 (O&M)

Satyawan Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Sharma, Advocate for the petitioner

Mr. Ranjit Kumar Saini, Advocate for respondent No.5.

Mr. Harish Rathee, Senior DAG, Haryana.

Mr. Aditya Gautam, Advocate for respondent No.3-HPSC.

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Harsimran Singh Sethi, J. (Oral)

CM-15239-CWP-2023

Application is allowed as prayed for.

Main cases

By this common order, above mentioned two writ petitions are

being disposed of as all the writ petitions involve the same question of law and similar facts.

2. In the present petitions, the prayer of the petitioner is to grant him the benefits of promotion to the post of Treasury Officer as well as quashing of promotion granted to one Umed Singh Malik as Treasury Officer. The claim of the petitioner is that the said Umed Singh Malik was wrongly appointed on the post of Treasury Officer as the post which was given to Umed Singh Malik had fallen vacant after the same was vacated by the candidate of the reserved category hence, the same should have been filled up by the candidate of the same reserved category and not by the candidate, who belongs to another category.

3. It may be noticed that the said claim of the petitioner qua the appointment of Umed Singh Malik against the post of Treasury Officer cannot be sustained for the reason that it is a conceded position of fact that the said appointment was given to Umed Singh Malik on the basis of the direction given by this Court in a writ petition being CWP No.3294-1989 filed by Umed Singh Malik claiming appointment to the said post.

4. It may be noticed that Haryana Service Public Commission had advertised two posts of Treasury Officer and 18 posts of Assistant Treasury Officer in the year 1986 and selection process was undertaken in the year 1988. Against the two posts of Treasury Officer, one Kumari Vijay Sangwan and Ram Kumar Bhoria were selected and against the posts of Assistant Treasury Officer various candidates including the petitioner and said Umed Singh Malik were selected.

5. In the meantime, another post of the Treasury Officer has

become available against which, Umed Singh Malik raised a claim for appointment on the said post being next in merit by filing a civil writ petition No.3294-1989. The said writ petition was allowed by this Court and a direction was given to the respondents to appoint Umed Singh Malik as Treasury Officer. In compliance of direction issued by this Court, Umed Singh Malik was appointed as Treasury Officer. Once, the appointment of Umed Singh Malik was made on the basis of the direction given by a Coordinate Bench of this Court, the petitioner cannot challenge the same by filing another writ petition and that too by a writ of quo warranto.

6. Learned counsel for the petitioner has not been able to show as to how the challenge to the appointment of Umed Singh Malik as Treasury Officer can be made in the present petition especially, when the same was done in pursuance to the order passed by the competent Court of law. Once, the facts mentioned hereinabove are not in dispute, no challenge can be raised to the appointment of the Umed Singh Malik to the post of Treasury Officer and the said grievance raised by the petitioner is accordingly rejected.

7. Further prayer of the petitioner is that even the seniority which was finalized in the cadre of Assistant Treasury Officer, which is required to be taken into consideration for further promotion to the post of Treasury Officer was not determined which caused prejudice to the petitioner.

8. It may be noticed that the petitioner is disputing his seniority qua the candidates, who were selected along with him in the same selection and as per the rules, the candidates, who have been selected in the same selection, their seniority depends upon the merit obtained by them during the

selection process. Once, nothing has brought to the notice of this Court that any candidate, who was lower in merit than the petitioner was given any benefit of preference to the petitioner for further promotion, no benefit can be given to the petitioner in the present petition.

9. Even otherwise, on the last date of hearing, following order was passed by this Court:-

“It has come on record that both the petitioner as well as respondent No.3 have already retired.

Learned counsel representing the petitioner has conceded during the course of hearing that there is no record as to whether the private respondent has been further promoted so as to ensure whether claim of the petitioner qua the fixation of seniority survives after the retirement of the parties concerned. Hence, learned counsel seeks a short adjournment to get information as to whether private respondent was further promoted to the post of Treasury Officer in preference to the petitioner during his service career.

Let the said affidavit be filed by the adjourned date, failing which appropriate order will be passed keeping in view the pleadings on record.

Adjourned to 13.09.2023.

To be shown in the ordinary motion.”

10. Affidavit of the petitioner has been filed but in the said affidavit, it is conceded that no one over and above the petitioner has been given promotion so as to cause any prejudice to him. Keeping in view the said factual aspect, once all the respondents have already retired from service since long and that too in the same cadre, no direction can be given to the respondents for framing of seniority list of the employees, who are no longer in services, the said claim has been rendered academic.

11. Keeping in view the above, no relief qua the prayer of framing of seniority list by the respondents as being prayed by the petitioner in the

present petition can be given at this stage and the present petition is disposed
of accordingly.

September 13, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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