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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16101-2012(O&M)
Date of Decision:05.12.2023

PURAN CHAND

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Present: None for the petitioner.

Mr.Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The relief as claimed by the petitioner for promotion to the post of District Development and Panchayat Officer has already been granted by the respondents.

2. In reply filed by the respondents, they have placed on record a copy of order passed on 05.10.2011, granting the benefit of promotion to the petitioner to the post of District Development and Panchayat Officer and has also been given notional benefits w.e.f the date promotion was granted to Lakhwinder Singh Dhaliwal, who was junior to the petitioner. Thereafter, the petitioner was further promoted as Deputy Director vide order dated 07.06.2013.

3. Keeping in view thereto, the Writ Petition has become infructuous and the same is accordingly dismissed.

4. After having dictated the aforesaid part of the judgment in the Court, learned counsel for the petitioner, Mr. G.S. Sethi, Advocate has

appeared in the Court stating that he was unable to appear as he was on his legs in another Court.

5. He has argued that the petitioner ought to be given actual benefits from 22.09.2000 i.e. from the date he has been promoted retrospectively as it was not his fault that the person junior to him was promoted in 2000. The principle of “no work no pay” would have no application and he relies on the judgment passed by the apex Court in the case of Ramesh Kumar Vs. Union of India and Others; 2015 AIR (Supreme Court) 2904 in support of his submissions.

6. Learned State counsel has, however, opposed the prayer for granting actual benefits submitting that the orders were passed in the year 2012 for promoting the petitioner and as he had not worked for 12 years, he could not be given actual benefits for the said period. However, notional benefits had been advanced and his pay fixation had been done accordingly.

7. I have considered the submissions of learned counsel for the parties.

8. This Court finds that while the so called promotion given to his junior was in the year 2000, the petitioner has filed this Writ Petition in the year 2012. It is so because the *inter se* seniority was finalized by the respondent-Department ultimately in the year 2011 wherein the petitioner was given the seniority over and above respondents No.3 and 4. After having been granted seniority over and above respondents No.3 and 4, the petitioner was considered by the Review Departmental Promotion Committee and he was promoted as District Development and Panchayat Officer vide order

dated 05.10.2011 promoting him notionally from the date his junior was promoted i.e. 22.09.2000.

9. Vide another order dated 30.04.2013, this Court was informed by the learned State counsel that the DPC is likely to be fixed for granting further promotion to the post of Deputy Director. Accordingly, meeting was convened and the petitioner was promoted as Deputy Director vide order dated 07.06.2013. The order of promotion to the post of the District Development and Panchayat Officer reflects that he was put in the pay scale of ₹7220-₹11660 w.e.f. 22.09.2000 making the same as notional. He was further promoted as Deputy Director vide order dated 07.06.2013.

10. The claim of the petitioner for being given actual benefits from 2000 in the pay scale of District Development and Panchayat Officer is found to be not made out firstly because the seniority positions between the petitioner and the respondents No.3 and 4 were finalized only in 2011 and thus, it cannot be said that in 2000, the petitioner was being treated as senior to respondents No.3 and 4. Secondly, the Writ Petition itself has been filed in 2011 and actual benefits, therefore, cannot be claimed prior to the filing of the Writ Petition.

11. The judgment passed in the case of **Ramesh Kumar** (Supra) will have, no application to the facts of the present case. In the said case the person was denied promotion from 01.08.1997 on the ground that there was a Red Ink entry. When the petitioner therein had submitted his representation, the DPC has again considered his claim and granted him promotion on 01.01.2000 with directions that seniority will be maintained from 01.08.1997. In these circumstances, this Court noticed that once the respondents have

granted him promotion from 01.08.1997, and he had been denied promotion on that relevant time on account of wrongful reasons there being no Red Ink entry, the Court directed to grant him all monetary benefits from 01.08.1997. Whereas in the present case, the *inter se* seniority has been finalized only in 2011.

12. In the aforesaid circumstances, giving the petitioner the actual benefits from the year 2000 is not made out, however, order of notional pay fixation from the year 2000 having been already passed, his pay fixation would be done accordingly and notional increments will be given to him w.e.f. the year 2000 upto the year 2011 whereafter he will be given actual pay fixation on the post of District Development and Panchayat Officer. The petitioner would also be entitled to actual benefits to the post of Deputy Director and he would also be entitled to all consequential benefits of pay and allowances including higher retiral benefits and pension.

13. The exercise shall be conducted and concluded within three months henceforth.

14. The Writ Petition is ***disposed of*** in the aforesaid terms.

15. All the pending applications in this Writ Petition stand disposed of accordingly.

December 5, 2023

Ess Kay

**[SANJEEV PRAKASH SHARMA]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>