

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

(214)

CWP-12911-2015

Date of decision:- 23.02.2023

Ram Narain Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Abhishek K. Premi, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Petitioner has approached this Court inter alia seeking issuance of writ in the nature of certiorari to quash impugned order dated 24.04.2015, Annexure P-8, whereby his claim for promotion to the post of Tehsildar w.e.f. 29.04.1984 and further promotion as District Revenue Officer w.e.f. 29.04.1989 has been rejected.

Facts leading to the filing of the petitioner are that the petitioner joined the Revenue Department in the year 1954. He was promoted as District Revenue Accountant in the year 1977 and to the post of Naib Tehsildar w.e.f. 29.04.1981. Claiming that he was entitled to be promoted as Naib Tehsildar w.e.f. 10.01.1977, he filed CWP-596-1986, which was disposed of by this Court vide order dated 18.01.1988, Annexure P-1,

whereby while quashing the order rejecting his representation, a direction was issued to the Commissioner to pass a fresh order in accordance with law. Pursuant thereto, by order dated 22.10.1990, Annexure P-2, petitioner was promoted as Naib Tehsildar w.e.f. 29.04.1981. Petitioner claims that he was entitled for further promotion as Tehsildar and thereafter as District Revenue Officer. He again approached this Court by filing a writ petition and by order dated 14.02.1994, Annexure P-4, this Court directed the respondent-State to finalise the promotion case of the petitioner in a time bound manner. In the meanwhile, petitioner retired from service on 31.03.1994 as a Naib Tehsildar. After a decade, by impugned order dated 24.04.2015, Annexure P-8, the respondents rejected the request of the petitioner for promotion.

Upon notice, writ petition has been contested by the respondents by filing a written statement, wherein a stand has been taken that the petitioner did not possess the requisite experience of five years as required under the Haryana Revenue (Group-B) Service Rules, 1988 (for short “1988 Rules”) for promotion to the post of Tehsildar. It has been submitted that by order dated 22.10.1990, Annexure P-2, petitioner was given retrospective promotion as Naib Tehsildar and the actual period put in by him on the feeder cadre post is around three and half years. During the pendency of the petition, a short reply was filed on behalf of the respondents No.1 and 2 in compliance of order dated 30.08.2018 passed by this Court, whereby the result of the departmental examination of the Tehsildars declared on 05.07.1993, Annexure R-2, was placed on the record.

Counsel for the petitioner has contended that the eligibility of the petitioner was required to be considered under the 1988 Rules as were applicable when the petitioner became eligible. This stand has been countered by the State counsel.

I have heard counsel for the petitioner and examined the documents appended with the paper-book with their able assistance.

It is evident from a perusal of the impugned order that the respondents have considered the promotion case of the petitioner on the basis of the 1988 Rules, which were amended in the year 2007. The admitted case of the parties is that the petitioner retired from service in March, 1994. He became eligible for promotion to the post of Tehsildar when he cleared the departmental examination on 05.07.1993. His promotion case was, therefore, required to be considered on the basis of the Rules as were applicable in July, 1993. This Court is of the view that the entire approach of the respondents is fallacious as the amendment brought about in the Rules in the year 2007 has been wrongly relied upon by them. The case of the petitioner deserves to be considered on the basis of the Rules as applicable in July, 1993. The impugned order, therefore, cannot be sustained.

For the foregoing reasons, impugned order dated 24.04.2015, Annexure P-8, is set aside. Competent authority is directed to consider the promotion case of the petitioner on the basis of the applicable Rules when the petitioner became eligible and pass a speaking order in case petitioner is not found fit to be promoted. This exercise be carried out within a period of six months from the date of communication of this order. In case, the

petitioner is found fit for promotion, his pay on the promotional post be fixed on notional basis, but he will not be entitled to any arrears of salary, however, other consequential benefits will follow.

Writ petition is disposed with the above directions.

23.02.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No