

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

Reserved on : 29.08.2023

Date of Decision: 13.12.2023

1. CWP No. 12382 of 2017 (O&M)

Sukhminder Singh		Petitioner
	vs.	
State of Punjab and others		Respondents

2. CWP No. 10529 of 2019 (O&M)

Sukhminder Singh		Petitioner
	vs.	
State of Punjab and others		Respondents

3. CWP No. 21786 of 2018 (O&M)

Baljeet Singh		Petitioner
	vs.	
State of Punjab and others		Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Rakesh Sobti, Advocate, for petitioner- Sukhminder Singh
in CWP No. 12382 of 2017 and 10529 of 2019).

Mr. Kamaldip Singh Sidhu, Advocate,
for petitioner- Baljeet Singh in CWP No. 21786 of 2018.

Mr. Charanpreet Singh, Assistant Advocate General, Punjab.

SANJEEV PRAKASH SHARMA, J.

This order of mine shall dispose of aforesaid three writ petitions
as common questions of law and facts are involved therein.

2. In **CWP No. 12382 of 2017** filed by petitioner – Sukhminder
Singh, prayer is for quashing of order dated 22.05.2017 reverting him from
the post of Senior Assistant to the post of Junior Assistant, and also quashing
the order dated 12.04.2013 whereby punishment of stoppage of two annual

increments with cumulative effect has been imposed. Also quashing of order dated 14.10.2013, whereby the petitioner was punished with stoppage of two increments without cumulative effect.

3. In **CWP No. 10529 of 2019** filed by petitioner- Sukhminder Singh, prayer is for quashing of order dated 12.04.2019 whereby it has been ordered to pay him salary of the post of Senior Assistant instead of Superintendent Grade-II. Further prayer is for posting him as Superintendent Grade-II and release the salary of the petitioner during the pendency of the writ petition.

4. In **CWP No. 21786 of 2018** filed by petitioner Baljeet Singh (impleaded **Respondent no. 4 in CWP No.12382 of 2017**), prayer is for quashing of order dated 21.06.2018 whereby respondent no. 4 – Sukhminder Singh (**writ petitioner in the aforesaid writ petitions i.e. CWP Nos. 12382 of 2017 and 10529 of 2019**) has been promoted to the post of Superintendent Grade-II.

Brief Facts

5. It is stated that reversion of petitioner – Sukhminder Singh from the post of Senior Assistant to the post of Junior Assistant was challenged in CWP No. 12382 of 2017 and stay order was initially passed on 12.06.2017 and reversion of the petitioner was stayed.

6. On 08.05.2019, status quo order was passed by this Court in CWP No. 10529 of 2019. The respondents have filed their reply wherein it has been stated that respondent no. 2 issued posting order of petitioner – Sukhaminder Singh as Superintendent Grade-II in the office of Sub-

Divisional Magistrate, Maur on 29.05.2019. The respondents have also released salary of the petitioner.

7. The interim order granted to the petitioner on 10.05.2019 was vacated vide order dated 16.10.2019.

8. Since there was *status quo* order, CM No. 8479-CWP of 2021 in CWP No. 10529 of 2019 has been moved by the respondent- State for vacating the *status quo* order so that the order of reversion can be implemented. It is stated that petitioner Sukhminder Singh suffered punishment of stoppage of two increments with cumulative effect vide order dated 12.04.2013. Appeal against the said order was rejected on 01.09.2015. By another order dated 14.10.2013, he was again punished with stoppage of two annual increments without cumulative effect relating to a separate charge. Appeal thereto was rejected on 29.07.2015.

9. The post of Senior Assistant was to be filled by way of promotion from Clerks, who have working experience of minimum five years. Earlier petitioner – Sukhminder Singh was wrongly promoted as Senior Assistant on 20.08.2014 ignoring the punishments. However, it was realized that during the currency of penalty period, he could not have been promoted and, therefore, the order of promotion was re-called and he was reverted back to his original post vide order dated 22.05.2017. It has been stated that the currency of the punishment order would survive upto 14.10.2017, therefore, he was reverted to the post of Junior Assistant. The order dated 22.05.2017 was challenged by him in CWP No. 12382 of 2017 and the said order was stayed by this Court vide order dated 12.06.2017. In the meanwhile, one post of Superintendent Grade-II fell vacant and names of

petitioner- Sukhminder Singh and respondent no.4 Baljeet Singh were sent by the department. Petitioner – Sukhminder Singh being senior was promoted as Superintendent Grade-II on 20.06.2018 subject to final outcome of CWP No. 12382 of 2017. He, therefore, joined as Superintendent Grade-II on 31.05.2019. The petitioner's challenge in CWP No. 10529 of 2019 to the order dated 12.04.2019 reverting him to the post of Senior Assistant has become redundant. However, other two writ petitions, one filed by petitioner Sukhminder Singh bearing CWP No. 12382 of 2017 and CWP No. 21786 of 2018 filed by petitioner – Baljeet Singh (respondent no.4 in CWP Nos. 12382 of 2017) are pending and the issue is relating to the aforesaid aspects, it would be appropriate to decide finally all the three writ petitions together and, therefore, they were heard together.

10. Petitioner in CWP No. 12382 of 2017 submits that the order of reversion dated 22.05.2017 reverting him from the post of Senior Assistant to the post of Junior Assistant after having worked for more than three years on the higher post based on anonymous complaint was illegal and unjustified. The petitioner also challenges the order of 12.04.2013 whereby he was punished with stoppage of two increments with cumulative effect and also order dated 14.10.2013 whereby he was punished with stoppage of two annual increments without cumulative effect.

11. This Court finds that the challenge to the order dated 12.04.2013 and 14.10.2013 is highly belated. The punishment has been awarded to petitioner – Sukhminder Singh for not taking action for filing RSA against the judgment passed in appeal filed by the government dated 21.01.2009 ignoring the letter dated 01.07.2009 for taking steps in getting the replies

vetted so that the interest and time of the government is not affected. The petitioner having been held guilty of the said charges after giving due opportunity of being heard, appeal was also heard and dismissed against the order of punishment. On account of his inaction, even after lapse of 12 years, RSA could not be filed. Thus, the allegations have been proved by the Enquiry Officer and the Disciplinary Authority has passed the order. There is no procedural illegality while passing the punishment order dated 12.04.2013 and does not warrant interference.

12. In the other order dated 14.10.2013 punishment of stoppage of two increments without cumulative effect has been passed. Procedure for imposing minor penalty was duly adopted and petitioner- Sukhminder Singh was punished for not sending the file relating to enquiry of Mai Sarkhana Mandir to the District Attorney, Bathinda. Thus, it is a case where the petitioner has been constantly slacking in his duties relating to watching the interest of the State Government in Court cases, for which he has been punished. Keeping in view thereto, the prayer made by the petitioner for quashing of the said punishment order is also found to be without basis and also an afterthought and belated, merely to protect himself from reversion from the post of Senior Assistant to which he was promoted without taking note of the punishment orders.

13. It is settled law that a person who has been punished for delinquencies cannot be awarded promotion at the same time. Having noticed that two annual increments with cumulative effect has been stopped, the petitioner could not have been promoted by the respondent-department and as soon as the said error was noticed, the same could be corrected. Learned

counsel for the respondent- State has relied upon a circular issued relating to erroneous promotions, which reads as under:-

“4. Erroneous promotions

Except where the appointing authority is the President, the question whether promotion/ appointment of a particular Government servant to a post was erroneous or not should be decided by an authority next higher than the appointing authority in accordance with the established principles governing promotions/ appointments. Where the appointing authority is the President, the decision should rest with the President and should be final. The Department of Personnel and Training should be consulted in respect of promotion / appointments in the Service administratively controlled by that Department. In other cases also, Department of Personnel and Training may be consulted if any point is doubtful.

The cases of erroneous promotion/ appointment in a substantive or officiating capacity should be reviewed with serious concern and suitable disciplinary action should be taken against the officer and staff responsible for such erroneous promotion.

[Ministry of Finance Memo No. F.1 (3)-Estt.III/59 dated 14-3-63].”

14. This Court also noticed in CWP No. 15297 of 2012 – **Mahinder Singh vs Haryana Staff Selection Commission and another** decided on 01.12.2012, in a somewhat similar situation where a person was promoted wrongfully without noticing the ACRs of the said individual. The promotion awarded earlier was re-called and the person was reverted. The order of reversion was challenged before this Court and this Court following judgment of this Court in **Sadhu Singh Versus State of Punjab and others**,

2001 (4) RSJ, 7, Division Bench judgment of Karnataka High Court in **P. Shiva Versus Union of India and others**, 2004(2) RSJ, 82 and judgment of learned Single Judge of Andhra Pradesh High Court in **K.R.Natarajan Versus Personnel Manager, Syndicate Bank**, 2003 (2) SLR, 293. The relevant extract of **Mahinder Singh**'s case (supra), reads as under:-

“In the light of the above position, the impugned order of reversion dated 29.6.2012 (Annexure-P-10), passed by the Director, Treasuries and Accounts Department, Haryana, is justified and no fault can be found with the order which has been passed reverting the petitioner back to the post of District Treasurer.

The judgments, which have been relied upon by the counsel for the petitioner in Sadhu Singh's case (supra) is a case where the impugned order has been passed after a period of twenty two years and in those circumstances, the Court had proceeded to state that the said reversion order could not be passed. It would not be out of way to mention here that, that was not a case where the integrity of the official was doubted. In the cases of P. Shiva and K.R. Natarajan (supra), those were cases where the selection for empanelment was involved and there were mistakes committed in making calculations which had resulted into passing an order of demotion. Therefore, those cases cannot be quoted and made applicable to the claim of the petitioner in the present writ petition.”

15. In the light of the above, this Court finds that petitioner – Sukhminder Singh could not be continued on the post of Senior Assistant to which he had been wrongly promoted. His reversion order, therefore, has rightly been passed. It is also noticed that this Court on 16.10.2019 vacated the interim order passed earlier on 10.05.2019 staying reversion of petitioner

– Sukhminder Singh. The second writ petition of Sukhminder Singh petitioner, namely, CWP No. 10529 of 2019 is a consequential writ petition. Once petitioner – Sukhminder Singh is found to be rightfully reverted from the post of Senior Assistant to the post of Junior Assistant, further promotion granted to him subject to final outcome of CWP No. 12382 of 2017 would also have to go. Accordingly, the writ petition, namely, CWP No. 10529 of 2019 filed by petitioner – Sukhminder Singh for posting as Superintendent Grade-II treating him as promoted on the post of Senior Assistant from which he has already been held to be rightly reverted is, therefore, without merits and the same deserves to be dismissed.

16. CWP No. 21786 of 2018 is a writ petition filed by Baljeet Singh, a person who is junior to petitioner – Sukhminder Singh and claims promotion on the post of Superintendent Grade-II. While taking into consideration the orders passed hereinabove and finding that promotion awarded to Sukhminder Singh (respondent no. 4 in CWP No. 21786 of 2018, writ petitioner in CWP No. 12382 of 2017 and CWP No. 10529 of 2019) is found to be admissible. The same is accordingly allowed. The case of petitioner Baljeet Singh shall now be considered as per his service record by holding DPC, if Baljeet Singh is found to be suitable, he is to be promoted.

17. It goes without saying that respondent no. 4 – Sukhminder Singh shall also be considered, after the completion of currency of the punishment, for promotion from the post of Junior Assistant to Senior Assistant. However, the same shall not in any manner affect petitioner – Baljeet Singh for further promotion to the post of Superintendent Grade-II.

18. Accordingly, CWP No. 21786 of 2018 filed by petitioner Baljeet Singh is allowed. All Pending applications also stand **allowed** accordingly.

19. CWP Nos. 12382 of 2017 and CWP No. 10529 of 2019 are accordingly **dismissed**. All pending applications therein are also dismissed. All interim orders shall stand vacated.

20. No costs.

13.12.2023

vs

[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>