

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

(221)

**CWP-17284-2018
Date of decision:- 30.01.2023**

Raghbir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. S.K.Verma, Advocate
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

SUVIR SEHGAL, J. (Oral)

Mr. Ravi Sharma, Advocate has put in appearance on behalf of respondent No.4 and has filed Memorandum of Appearance, which is taken on record.

Instant writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing order dated 08.12.2016, Annexure P-7, passed by respondent No.2, whereby petitioner has been promoted as Kanungo w.e.f. 01.07.2004 instead of 24.06.1993. A further prayer has been made for directing the respondents to retrospectively promote the petitioner as Kanungo and grant him consequential benefits.

Upon notice, respondents No. 1 to 3 have filed a written statement, wherein it has been submitted as under:-

“It is further submitted that although the petitioner was promoted as Kanungo on 13.07.1993 subject to passing the departmental examination of Kanungo but the petitioner could not pass the departmental examination and thus he was reverted to the post of Patwari on 19.09.2001.

Thereafter the petitioner was given an opportunity for passing the aforesaid test vide respondents office letter memo No.SS.1/4203-04 dated 28.11.2002 (Copy already placed as Annexure P-2). The petitioner passed the departmental examination of Kanungo held on 28/29.08.2003 after passing reversion order.

During the aforesaid process, the petitioner was charge sheeted under rule 7 of the Punishment and Appeal Rules, 1987 while suspending from service in view of memo No.SS1/4996-5001 dated 04.12.1997 issued by respondent No.2-upon hearing of which, two annual increments of the petitioner were stopped with cumulative effect vide memo office No.SS1/2219-21 dated 27.02.2002 due to not finding the explanation of petitioner satisfactory. The effect of these stopped increments remained up to 30.06.2004, due which the petitioner is entitled to the promotions Kanungo w.e.f. 01.07.2004.

So the petitioner was promoted to the post of Kanungo by giving deemed benefit of promotion in the pay scale of Kanungo Rs.5000-7850. After granting promotion to the petitioner, his pay has been fixed in the following manner:-

<i>Sr. No.</i>	<i>Date</i>	<i>Pay as Patwar i</i>	<i>Pay as Kanungo</i>	<i>Remarks</i>
<i>1.</i>	<i>1.7.2003</i>	<i>5900/-</i>	<i>-</i>	<i>-</i>
<i>2.</i>	<i>1.7.2004</i>	<i>6050/-</i>	<i>6200/-</i>	<i>As Kanungo</i>
<i>3.</i>	<i>5.3.2005</i>	<i>---</i>	<i>6350/-</i>	<i>Next date of increment due on 01.07.2006</i>
<i>4.</i>	<i>1.1.2006</i>	<i>6350/-</i>	<i>Pay revised 11820 +3200 GP=15020</i>	<i>Next date of increment due on 1.7.2006</i>
<i>5.</i>	<i>1.7.2006</i>	<i>---</i>	<i>12270+3200GP=15470</i>	<i>---</i>
<i>6.</i>	<i>4.1.2008</i>	<i>---</i>	<i>----</i>	<i>Two increment without cumulated effect dated 05.1.2007</i>

7.	1.7.2007	---	12270+3200GP=15470	---
8.	1.7.2008	---	12270+3200GP=15470	---
9.	1.7.2009	---	13720+3200GP=16920	Annual increment
10.	1.7.2010	---	14230+3200GP=17430	----
11.	11.2.2011 to 14.3.2011 = 32 days & 22.3.2011 to 1.5.2011= 41 days	---	----	Without pay vide order dated 06.5.2013
12.	14.9.2011		14700+3200GP=17960	Retired from service on 30.04.2012

Although the petitioner was promoted to the post of Kanungo on 01.7.2004 and he could not complete 10 years service as Kanungo on 30.4.2012 i.e. much prior to proceeding on superannuation retirement from service because he remained absent from duty on 11.2.2011 to 14.3.2011 and 22.3.2011 to 01.5.2011 from his post and has retired from service on 30.4.2012 and thus he is not entitle to get the benefit of next ACP. All benefits have been granted as per HCS Rules, 2006 and regulation applicable in the matter vide order dated 08.12.2016 passed by the Director General, Consolidation, Haryana, Panchkula vide Est. Memo SS3/4920-25 dated 27.12.2016 and hence the petitioner is not entitled to get any relief from the Hon'ble Court."

At this stage, counsel for the petitioner has invited the attention of the Court to the third prayer made in the petition and submits that the respondents are bound to pay interest on delayed payment of retiral dues. He has made a reference to para 14 of the writ petition, which has not been

denied by the respondents in their response, to submit that the retiral benefits have been released to the petitioner in the year 2016-2017, despite the fact that the petitioner retired on 30.04.2012. A specific submission has been made by him that LTC has not been released to the petitioner.

Keeping in view the above, writ petition is disposed with a direction to the respondents to pay interest @ 6% per annum for the delayed period of the release of the retiral benefits. The amount due to the petitioner by way of LTC be disbursed to him in case there is no legal impediment in doing so. The entire payment be made within four months of the communication of this order.

Writ petition is disposed of.

30.01.2023
Kamal

(SUVIR SEHGAL)
JUDGE

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