

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(218) CWP No. 18918 of 2018
Date of Decision : 04.10.2023

Satinder Pal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Manoj Chahal, Advocate for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

Mr. J.S. Maanipur, Advocate and
Mr. Joy Preet Meelu, Advocate for respondent No. 4.

Mr. Anil Ghanghas, Advocate for respondent No. 5.

Mr. Akash Kundu, Advocate for respondent No. 6.

Harsimran Singh Sethi J. (Oral)

The present petition has been filed challenging the promotion of respondents No. 4 to 6 as Personal Assistant on the ground that the petitioner is senior to them.

Learned counsel for the petitioner argues that petitioner was initially appointed as a Junior Scale Stenographer on ad-hoc basis in the Department of Lotteries on 29.04.1988 and thereafter, his services were regularized in the said department on 01.01.1991. The petitioner was further promoted as Senior Scale Stenographer on 07.06.1993. The Lotteries Department was abolished on 31.03.2008 and the services of the petitioner were transferred to the Transport Department. Learned

counsel for the petitioner submits that while working on the post of Junior Scale Stenographer, an employee has more than one promotional avenue. Employees can either seek promotion to the post of Senior Scale Stenographer or to the post of Assistant as the case may be for which, an employee has to opt the avenue of promotion.

It may be noticed that the petitioner chose the option of promotion to the post of Assistant instead of Senior Scale Stenographer. Private respondents, who were juniors to the petitioner in the Cadre of Junior Scale Stenographer, chose the Cadre of Senior Scale Stenographer for further promotion.

Keeping in view the above exercise by a particular employee including the petitioner, private respondents, who had opted for promotion to the post of Senior Scale Stenographer, were promoted in the said Cadre in the year 2013 but the petitioner could not be promoted as he had opted for promotion to the post of Assistant.

Further, when the petitioner realized that he is not being promoted to the Assistant due to non-availability of Cadre post and in the Cadre of Senior Scale Stenographer, his juniors have already been promoted, petitioner opted to change his option for promotion to the post of Senior Scale Stenographer instead of Assistant.

Keeping in view the said option, ultimately the petitioner was promoted as Senior Scale Stenographer. Further promotion from the post of Senior Scale Stenographer and the Assistant was to be affected and the petitioner raised a grievance that as private respondents were

juniors to him in the Cadre of Junior Scale Stenographer, he be placed over them in the seniority even though, he was promoted on a later date to the post of Senior Scale Stenographer as compared to private respondents No. 4 and 5. Respondent No. 6 was even otherwise working in the Cadre of Assistant for further promotion.

It may be noticed that further promotion from the post of Senior Scale Stenographer or the Assistant was to the post of Assistant Secretary keeping in view the Haryana Transport Department (Group-C) Transport Commissioner's Office Service Rules, 1998. Petitioner claimed that for the said promotion, he be treated senior to the private respondents, which benefit was not being extended to him, which has led to the filing of the present petition.

In the reply filed, the respondents have mentioned that prior to the date of promotion, the petitioner as per Annexure P-2 had given an option that he wants promotion in the Cadre of Assistant instead of Senior Scale Stenographer and that is why, respondents No. 4 and 5 were promoted in the Cadre of Senior Scale Stenographer in preference to the petitioner, hence, petitioner cannot raise grievance with regard to the promotion of respondents No. 4 and 5 as the petitioner never opted for promotion in the said Cadre, when private respondents No. 4 and 5 were promoted. Qua respondent No. 6, the respondents mentioned that respondent No. 6 is in the Cadre of Assistant. In the reply, the respondents mentioned that respondent No. 6 was working as Cashier-cum-Assistant, which is a promotional post from the post of Junior Scale

Stenographer, hence, in any case he is senior to the petitioner and his seniority in the Cadre of Assistant is being taken into consideration for further promotion to the post of Assistant Secretary and the petitioner cannot raise any grievance qua the said promotion.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In the facts and circumstances depicted here-in-before, it is clear that the petitioner chose his promotional avenue with open eyes. In the year 2013 when the private respondents No. 4 and 5 were considered for promotion to the post of Senior Scale Stenographer, the petitioner had chosen not to seek promotion to the said post of Senior Scale Stenographer and had opted for promotion to the post of Assistant. Once, the petitioner had opted for a different avenue of promotion as opted by respondents No. 4 and 5, there is no illegality in promoting respondents No. 4 and 5 to the post of Senior Scale Stenographer in preference to the petitioner.

Further, once after the promotion of respondents No. 4 and 5, the petitioner withdrew his earlier option and again opted for promotion to the post of Senior Scale Stenographer, the same has already been given to him in the year 2017 but, in the facts and circumstances of the present case, keeping in view the fact that the seniority in the Cadre is depicted qua continuous length of service in the Cadre, the petitioner has rightly been considered junior to respondents No. 4 and 5 and that too

only because of his own option, which was given by him in the year 2013, hence, he cannot raise any grievance qua the said fact.

Qua respondent No. 6, it is a conceded position that while petitioner was working as a Junior Scale Stenographer, respondent No. 6 was working as Cashier-cum-Assistant, which is a higher post as compared to Junior Scale Stenographer and rather, is a promotional avenue from the post of Junior Scale Stenographer, hence, no grievance can be raised qua considering respondent No. 6 as senior to the petitioner for further promotion.

Keeping in view the facts and circumstances mentioned here-in-before, no interference is called for by this Court qua the prayer being made by the petitioner in the present petition.

Dismissed.

Any civil miscellaneous application, if pending, stands disposed of.

October 04, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No