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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-15703-2023

Date of Decision: 25.07.2023

Sanjeev Kumar Singla

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. A.P. Kaushal, Advocate
 for the petitioner.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this petition claims *post facto* experience from the year 2017 on the post of SDO to which he has been actually promoted vide order dated 31.05.2018.
2. Learned counsel submits that the exercise for promotion was conducted for the other Junior Engineers (Diploma Holders) by the Department in 2017 and promotions were granted to the diploma holders in junior engineers as SDO on 25.07.2017, while there were 2 posts lying vacant in the quota meant to be filled by Junior Engineers (Degree Holders). The said 2 posts were lying vacant since 2015 as 5 officers had been promoted as SDO in 2015, out of which 2 SDOs who got promoted were from degree holder quota.
3. Thus, he submits that although the promotion was awarded to him in 2018, it should relate back from the date the vacancies occurred in

2015, and therefore the notional experience should be counted for the post of SDO from 2015 for the purpose of considering him for promotion to the post in XEN which requires 6 years experience.

4. Learned counsel has also relied on a circular issued by the Punjab Government dated 27.04.1982 which provided *'that in future the date of occurrence of vacancy shall be taken as the relevant date of determining eligibility for promotion to higher post'*.
5. I have considered the submissions and carefully gone through the service rules governing the petitioner namely the Punjab Rural Development and Panchayats (Group 'A') Technical Service (First Amendment) Rules, 2022.
6. From perusal of the said Rules, it is apparent that there is no provision for granting promotion against a vacancy created in previous years. In other words, the promotion is not to be granted retrospectively. The consequential practice that a person who is promoted will gain actual experience only for the purpose of consideration for further promotions. The order of promotion also provides that the officers would be placed on probation for one year after they have been promoted.
7. In view of above facts, the law has to be understood to mean that a person who is promoted shall be entitled to get his experience counted only from the date he is promoted and not from the date the vacancy may have been created in the department.
8. Actual experience being the rule for further promotion, claim of the petitioner for retrospective promotion and notional experience is found to be misconceived. The law is settled that rule has to be interpreted

prospectively unless there is a specific mentioning of it being retrospective.

9. The Writ Petition is accordingly found to be without merits and is dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

July 25, 2023

Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |