

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

217

CWP-20990-2018

Date of Decision :-13.12.2023

Satbir Singh

..Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Shalender Mohan, Advocate and
Ms. Aarti Sharma, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. H.S. Oberoi, Advocate for respondent No.3.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that he has not been granted the benefit of two increments, which were due to him before his retirement and the respondents be directed to grant the said benefit and thereafter release the pensionary benefits of the petitioner as per the last pay drawn by him.

2. Learned counsel for the petitioner argues that the petitioner has not been granted the benefit of increment for the year 2015 and 2016 while working on the post of Assistant Treasury Officer and hence, the respondents are under an obligation to grant the said benefit to the petitioner with all consequential benefits as well revised pay.

3. Learned State counsel submits that the petitioner was promoted

to the post of Assistant Treasury Officer vide promotion order dated 31.12.2013, wherein a condition was imposed upon the petitioner that he has to pass a departmental examination before he becomes eligible for the grant of benefit of increment but petitioner never passed the said departmental examination till his retirement and hence, the claim of the petitioner for the grant of benefit of increment is liable to be declined.

4. Learned counsel for the petitioner submits that though, the condition of passing the departmental examination before the grant of benefit of increment was mentioned in the promotion order of the petitioner but no departmental examination was held after the promotion of the petitioner till his retirement hence, non-passing of departmental examination cannot be attributed to the petitioner as the same was due to inaction on the part of the respondent-department.

5. Learned counsel for the respondents submits that an affidavit dated 22.08.2022 has already been filed before this Court by Mr. Satish Kumar Siwach, Treasury Officer, Bhiwani wherein, it has been mentioned that after the promotion of the petitioner as Assistant Treasury Officer on 31.12.2013, department asked for details/application form vide letter dated 16.06.2014 from the eligible candidates including the petitioner so as to allow them to appear in the departmental examination but the petitioner did not send his details for appearing in the departmental examination, which was held from 08.11.2014 to 09.11.2014 hence, the petitioner himself chose not to appear in the said departmental examination.

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

7. It is a conceded fact that the promotion of the petitioner to the

post of Assistant Treasury Officer was ordered with a condition that petitioner has to pass a departmental examination before the grant of benefit of increment. It is also a conceded fact that petitioner failed to clear the said departmental examination till he retired in the year 2017. The contention of the learned counsel for the petitioner that no departmental examination was conducted by the respondent-department after the promotion of the petitioner has already been rebutted by the respondents by placing on record the document to show that the candidates including the petitioner were asked to fill up the application form along with two photographs so that they can appear in the departmental examination which was scheduled to be held from 08.11.2014 to 09.11.2014. It has come on record by way of an affidavit that petitioner did not fill the said form so as to appear in the departmental examination.

8. Once, by way of an affidavit, an assertion has been made on behalf of the respondents that the departmental examination was conducted from 08.11.2014 to 09.11.2014, the contention of the learned counsel for the petitioner that no departmental examination was held after the promotion of the petitioner cannot be believed. That being the factual position, once the petitioner was promoted to the post of Assistant Treasury Officer with a clear condition that he has to pass the departmental examination so as to get the benefit of increment and as per the record, the petitioner has not cleared the said departmental examination till his retirement despite awarding chance to clear the same, no ground is made out to allow the prayer of the petitioner as raised in the present petition and the writ petition is accordingly dismissed.

employees, who were beyond 55 years of age have already been granted the benefit of exemption from passing the departmental examination.

10. Nothing has been brought on record that the petitioner has ever approached the respondents for the grant of benefit of exemption from passing the departmental examination hence, the petitioner can approach the respondents by way of filing a representation before the respondents and in case any such representation is filed by the petitioner claiming the benefit of exemption from passing the departmental examination, the same will be decided by the respondents within a period of 08 weeks from the date of receipt of any such representation.

December 13, 2023
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No