

## IN THE HIGH COURT OF PUNJAB &amp; HARYANA AT CHANDIGARH

Letters Patent Appeal No. 1071 of 2022 (O&M)  
Date of Decision: 24.05.2023

Seema Sharma

.....Appellant

versus

Haryana State Electronics Development Corp. Ltd. and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE  
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. Baldev Singh, Advocate, for the appellant.

\*\*\*\*

**RAVI SHANKER JHA, CHIEF JUSTICE (oral)**

This appeal has been filed by the appellant-petitioner being aggrieved by the order dated 29.08.2022 passed by the learned Single Judge in Civil Writ Petition No. 10742 of 2013 whereby her petition seeking promotion on the post of Senior Receptionist-cum-PBX Operator w.e.f. 10.09.1991 has been rejected.

2. Brief facts leading to the filing of the petition before the learned Single Judge are that the appellant-petitioner was working on the post of Receptionist-cum-PBX Operator. Vide order dated 10.09.1991, the authorities promoted respondents No.4 and 5, who were junior to the appellant-petitioner. Aggrieved, the appellant-petitioner assailed the said order by filing a civil suit. While the civil suit was decreed, the appeal as well as the second appeal filed against that order were also dismissed by the competent Courts. However, the Supreme Court in Special Leave Petition (Civil) No. 13139 of 2005 set aside the said order by remitting the matter to the High Court for deciding the criteria for making promotion and other issues raised by the parties. This Court vide order dated 23.08.2011 passed

Receptionist-cum-PBX Operator was merit cum seniority and remitted the matter to the authorities for considering comparative merit of the petitioner alongwith respondents No.4 and 5. The respondent-authorities reconsidered the said issue of promotion in terms of the criteria laid down by this Court and vide impugned order dated 03.02.2012 granted promotion to respondents No.4 and 5 in preference to the appellant-petitioner. Being aggrieved by the said order, the appellant-petitioner had filed a writ petition before the learned Single Judge, which has been dismissed vide the impugned order dated 29.08.2022.

Learned counsel appearing for the appellant submits that the Court below has failed to take into consideration the fact that the appellant-petitioner was served with several show cause notices from the years 1987 to 1991. He further submits that as the grading awarded in her Annual Confidential Report for the year 1991 as 'satisfactory' was on the basis of said show cause notices and since no show cause notice was given by the authorities before recording this entry, the respondent authorities could not have granted preference to respondents No.4 and 5 on merit cum seniority basis taking into consideration her ACR for the year 1990-91. He further submits that in view of the decision of the Supreme Court rendered in ***Dev Dutt vs. Union of India 2008(8) SCC 725***, it is now settled that every entry good or bad has to be communicated to the concerned employee and since the entry recorded for the year 1990-91 as 'satisfactory' was not communicated to the appellant-petitioner by the authorities, the same could not have been taken into consideration for denying promotion to the petitioner.

We have carefully considered the record, perused the impugned order passed by the learned Single Judge and considered the contentions raised by learned counsel for the appellant-petitioner.

From a perusal of the impugned order passed by the learned Single Judge, it is evident that the respondents had placed the comparative grading and service record of the petitioner as well as respondents No.4 and 5 before the learned Single Judge relating to the relevant period i.e. 1987 to 1991, which is as follows:-

| Sr. No. | Year    | Seema Sharma (petitioner) | Santosh Kumari (respondent No.4) | Deveshwari Negi (respondent No.5) |
|---------|---------|---------------------------|----------------------------------|-----------------------------------|
| 1.      | 1986-87 | Very Good                 | Good                             | Very Good                         |
| 2.      | 1987-88 | Good                      | Satisfactory                     | Good                              |
| 3.      | 1988-89 | Good                      | Good                             | Good                              |
| 4.      | 1989-90 | Good                      | Good                             | Very Good                         |
| 5.      | 1990-91 | Satisfactory              | Outstanding                      | Outstanding                       |

Learned Single Judge on the basis of the aforesaid service record has found the action taken by the authorities to be in conformity with law. Learned Single Judge has also taken note of the fact that admittedly there was no adverse entry recorded in the service record of the petitioner and therefore, the question of communicating the same to her did not arise. More so even assuming and accepting the contention of the petitioner that she came to know about the said ACR entry in the year 2012, she did not take up any proceedings to get the said entry set aside or upgraded. Learned Single Judge has also recorded a finding that the show cause notices said to have been issued to the petitioner did not form the basis for recording the entry in the ACR for the year 1991 and even there is nothing on record to establish the same. In the circumstances, the contention of the appellant-petitioner that she was given downgraded entry of ‘satisfactory’ in her ACR for the year 1990-91 on the basis of certain show cause notices is factually

incorrect and not established. By recording the said findings, learned Single Judge has dismissed the petition filed by the appellant-petitioner.

Further, from a perusal of the comparative chart indicating the service record of the petitioner as well as respondents No.4 and 5, it is evident that respondents No.4 and 5 have a better service record than that of the appellant-petitioner. It is further evident that the contention of the petitioner that the show cause notices issued to her from 1987 to 1991 form the basis of recording a 'satisfactory' grading for the year 1990-91 is also not borne out from the service record because the show cause notices are said to have been issued from 1987 to 1991 and the grading(s) recorded for the years 1987-88, 1988-89 and 1989-90 are 'Good', whereas the grading for the year 1990-91 is 'satisfactory'. Had the show-cause notices form the basis for recording the ACR entries, the petitioner would have been accorded satisfactory grading(s) for the years 1987, 1988, 1989 and 1990 as well.

Quite apart from the above, the decision of the Supreme Court rendered in *Dev Dutt (supra)* came to be delivered in the year 2008 and it is only thereafter that all the grading(s) good or bad recorded in the ACRs were required to be communicated to the employees. The entries were recorded in the ACRs of the petitioner from the years 1987 to 1991, therefore, there was no requirement of communicating every entry to an employee and it is only the adverse entry that was required to be communicated. Admittedly, in the instant case, no adverse entry has been recorded in the service record of the petitioner. Even for the year 1990-91, the grading of the petitioner has been recorded as '*satisfactory*' and not adverse. In such circumstances, the decision of the Supreme Court relied upon by learned counsel for the appellant-petitioner in *Dev Dutt Case (supra)* does not apply to the facts of

the present case. It is also evident that though the appellant-petitioner came to know about her service record in the year 2012, she did not take up any proceedings before any Court though the matter was pending before the competent Court in respect of the said entry recorded for the year 1990-91.

In such circumstances, as it is evident that the service record of respondents No.4 and 5 is better than that of the appellant-petitioner, no fault can be found with the impugned action taken by the respondent-authorities in granting promotion to respondents No.4 and 5 in preference to the appellant-petitioner. We also do not find any perversity or illegality in the impugned order passed by the learned Single Judge warranting any interference. The appeal filed by the appellant-petitioner is accordingly dismissed.

(RAVI SHANKER JHA)  
CHIEF JUSTICE

(ARUN PALLI)  
JUDGE

24.05.2023

ravinder

|                           |         |
|---------------------------|---------|
| Whether speaking reasoned | √Yes/No |
| Whether reportable        | √Yes/No |