



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

Date of Decision : 22-08-2024

.....Petitioner

STATE OF PB.ETC.

.....Respondent(s)

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance of the petitioner is that the petitioner is entitled for promotion to the post of District Revenue Officer w.e.f the date respondent No.2 has been promoted, who was junior to the petitioner.

Certain facts needs to be noticed for the correct apprehension of the issue in hand.

The petitioner joined the services as a Steno-Typist in April 1960 and thereafter, he was selected as an Assistant in the respondent-Department in the year 1974. Thereafter, he was accepted as a Class-B Naib Tehsildar on 13.06.1980. Thereafter, the petitioner was appointed as a Naib Tehsildar from the said date. The next promotion was to the post of Tehsildar on which post, the petitioner was promoted on 10.12.1987.

After the promotion as Tehsildar, the petitioner claimed retrospective promotion on the said post from the date of 17.10.1983 on the ground that an employee junior to him has been promoted on the post of Tehsildar from the said date and therefore, he should also be promoted as Tehsildar with retrospective effect from 17.10.1983.

The prayer of the petitioner was accepted and he was granted promotion to the post of Tehsildar and his pay was re-fixed w.e.f 17.10.1983 vide order dated 22.04.1991 (Annexure P-1).

By the grant of the said benefit, the petitioner gained seniority over and above respondent No.2 in the Cadre of Tehsildar but, without considering the claim of the petitioner, the respondent No.2 was promoted from the post of Tehsildar to that of District Revenue Officer w.e.f 05.08.1994.

As respondent No.2, who was junior to the petitioner had already been granted further promotion as District Revenue Officer on 05.08.1994, which benefit was not being given to the petitioner, the petitioner started making representations to the respondent to grant him the benefit of promotion to the post of District Revenue Officer w.e.f. 05.08.1994 the date when employee junior to the petitioner i.e. respondent No.2 has been promoted.

Before, the petitioner's request could be accepted, the petitioner attained the age of superannuation on 31.08.1997. The present petition has been filed for claiming the benefit of promotion to the post of District Revenue Officer w.e.f the date respondent No.2 has been promoted i.e. 05.08.1994.

Upon notice of motion, the respondents have filed the reply. In reply, the respondents does not dispute the fact that the respondent No.2 was promoted as District Revenue Officer w.e.f 05.08.1994. However, the respondents have stated that there is no order promoting the petitioner as Tehsildar from 17.10.1983 and only his pay has been fixed from the said date, and his date of promotion as Tehsildar is 10.12.1987 therefore, the petitioner cannot claim himself to be senior to respondent No.2 so as to claim promotion to the post of District Revenue Officer w.e.f the date respondent No.2 has been promoted.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

The only objection which has been raised qua the claim of the petitioner for promotion to the post of District Revenue Officer w.e.f 05.08.1994 i.e. the date respondent No.2 was promoted is that there is no order promoting the petitioner as Tehsildar with retrospective effect from 17.10.1983 so as to gain seniority over and above the respondent No.2 in the cadre of Tehsildar and the promotion of the petitioner as Tehsildar remains as 10.12.1987. In order to resolve the said issue, the order Annexure P-1 needs to be read. The relevant order Annexure P-1 has been reproduced as under:

“Annexure:P-1

Govt. of Punjab Department of Revenue (R.E.1 Branch)

ORDER.

Consequent upon his promotion as Tehsildar in the scale of — Rs.825-1580 with effect from 17.10.1983, vide memo No.1(8)16/67-REI(1)/6187, dated 7.7.1989, the pay of Sh.Sarup Singh, Tehsildar is fixed as under:-

Date	Pay	Remarks
1.4.83	850/-	(As Naib Tehsildar in the scale of Rs.700-1200)
17.10.83	880/-	Promoted as Tehsildar and Pay fixed under Rule 4.14, CSR, V01.1, Part-1
1.4.84	910/-	
1.4.85	940/-	

2. As a result of the revision of pay scales with effect from 1.1.1986, vide Punjab Government Finance Department Notification No.1/56/89-FP1/1440, 25.2.1991, dated the pay of Sh.Sarup Singh, Tehsildar in the scale of Rs.2100-2400-60-2700-75-3000-100-3700 is fixed with effect from the date of his option under Rule 7 of the Punjab Civil Service (Revised Pay Rules, 1988, as below:

Date	Pay Scale of Rs.2100- 3700	Remarks
1.4.1986	2100/-	Minimum of the New Scale
1.4.1987	2150/-	Annual Increment
1.4.1986	2200/-	”
1.4.1989	2250/-	”
1.4.1990	2300/-	”
1.4.1991	2350	Next date of increment is 1.4.1929.

Sd/- Swaran Singh

Joint Secretary to Government, Punjab

Chandigarh, dated the 22.4.1991. Revenue Department.

Endst.No.1(8)16/87-RE1/6800-7 dated the 9.5.91 Chandigarh,

A copy is forwarded for information and necessary action to the:

- 1. Accountant General, Punjab (A&E), Chandigarh.
 - 2. Commissioner, Ferozepur Division, Ferozepur.
 - 3. Sub Divisional Sahib/Faridkot. Officer (C) Fatehgarh
 - 4. Treasury Officer, Fatehgarh Sahib/Faridkot.
 - 5. Sh.Sarup Singh, Tehsildar, Faridkot.
- E-5/E-6 (REI Branch)”

A bare perusal of the above would show that the respondents have promoted the petitioner as Tehsildar with retrospective effect from

17.10.1983 and his salary has been fixed in the cadre of Tehsildar from the said date hence, it is clear that all the benefits qua the post of Tehsildar have been extended to the petitioner from 17.10.1983 hence, the action of the respondents in treating the petitioner for the promotion as Tehsildar from December, 1987 is totally arbitrary and illegal and is contrary to their own order Annexure P-1 dated 22.04.1991.

Further, once the promotion is taken from 17.10.1983, the respondent No.2 becomes junior to the petitioner in the cadre of Tehsildar and once it is a conceded position that respondent No.2 has been promoted as a District Revenue Officer on 05.08.1994, on which date, the petitioner thereby had already gained seniority over respondent No.2 keeping in view of the order dated 22.04.1991 (Annexure P-1), the petitioner thereby had a preferential right to get the promotion as District Revenue Officer on the said date in preference to respondent No.2.

The action of the respondents in not granting the promotion to the petitioner as District Revenue Officer despite he gaining seniority over and above respondent No.2 is totally arbitrary and illegal hence, keeping in view the facts and circumstances of the present case where the respondents themselves have granted the promotion to the petitioner in the cadre of Tehsildar from 17.10.1983, and consequential benefits of re-fixation of his salary from the said date, the petitioner becomes senior to respondent No.2 in the cadre of Tehsildar and has a preferential right of promotion to the said post of District Revenue Officer as on 05.08.1994.

The respondents are directed to grant the petitioner the benefit of promotion as District Revenue Officer from the date respondent No.2 was

promoted i.e. 05.08.1994. As the petitioner has raised the said claim after retirement, the petitioner will not be entitled for any arrears of salary qua the said promotion upto the date of filing of the petition though, he will be treated as District Revenue Officer w.e.f 05.08.1994 upto the date of his retirement qua fixation of his salary etc. and his pensionary benefits will also to revised keeping in view the salary which the petitioner is found entitled for on the date of his retirement as District Revenue Officer. From the date of filing of the present petition i.e. 28.08.2000, the petitioner will also be entitled for the consequential benefits of the revised pension along with the arrears.

As the benefit of promotion was wrongly denied to the petitioner while he was in service and the petitioner has been litigating for the past 24 years to get his legitimate claim, the arrears, which the petitioner will be found entitled for under this order, will also carry the interest @ 6% per annum.

The present petition is accordingly allowed.

Pending application, if any, also stands disposed of.

22-08-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO