



CWP-3719-2020

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

(227)

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Date of Decision : May 20, 2024

Karambir Singh**.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Pushpinder Yadav, Advocate, for the petitioner.

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

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 31.01.2020 (Annexure P-6) by which, the current duty charge given to the petitioner to the post of Kanungo, has been withdrawn. Further prayer of the petitioner is that the respondents be directed to consider the petitioner for promotion to the post of Kanungo, which are lying vacant. Further prayer of the petitioner is that the petitioner be given the salary for the period he has discharged the duties on the post of Kanungo on current duty charge.

2. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that the current duty charge, which has been withdrawn vide order dated 31.01.2020 was not given by the



competent authority i.e. Director General, Urban Estates, Haryana and the same was given by the Naib Tehsildar and that too in violation of the instructions of the Government. Further, it has been mentioned in the reply that five years experience as Patwari is required for promotion to the post of Kanungo and as the services of the petitioner were only regularized in the year 2014, the petitioner only became eligible for promotion to the post of Kanungo in the year 2019 and the promotion is to be made on the basis of seniority. It has been further mentioned that the policy under which the services of the petitioner had been regularized has already been set aside by this Court while passing order in ***CWP No.17206 of 2014 titled as Yogesh Tyagi and another vs. State of Haryana and others, decided on 31.05.2018*** and the petitioner is only working as Patwari under the status quo order granted by the Hon'ble Supreme Court of India hence, no benefit of promotion as being claimed by the petitioner, can be given.

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

4. It is a settled principle of law that an employee can only claim the post in case he/she is eligible to retain the said post in accordance with the rules governing the service. The petitioner was only given the current duty charge on the post of Kanungo which was also not given by the competent authority hence, which it came to the notice of the competent authority that the grant of the current duty charge of the post of Kanungo to the petitioner is without any valid justification, the same has rightly been withdrawn.



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5. With regard to the claim of the petitioner for promotion to the post of Kanungo, it may be noticed that the services of the petitioner have been regularized under the regularization policy of the year 2014, which has already been set aside in *Yogesh Tyagi's case (supra)* and the matter is pending before the Hon'ble Supreme Court of India and the petitioner is only continuing on the post of Patwari on regular basis under the interim orders of the Hon'ble Supreme Court of India. Once, the appointment of the petitioner as Patwari on regular basis is still under dispute and the said dispute is pending before the Hon'ble Supreme Court of India, the petitioner cannot claim regular promotion to the post of Kanungo.

6. The last prayer which has been raised by the learned counsel for the petitioner is that the petitioner should be given the salary for the post of Kanungo for the period he has discharged the duties of the said post.

7. The said argument is valid.

8. Once, the petitioner has been asked to discharge the duties of the higher post of Kanungo, the petitioner becomes entitled for the grant of salary of the said post for the period he has discharged the duties of the post of Kanungo.

9. Present petition is allowed to the extent that only the claim of the petitioner with regard to the salary of the post of Kanungo for the period he has discharged the duties of the said post on current duty charge is allowed. The respondents are directed to grant the petitioner the salary of the post of Kanungo for the period he has discharged the duties. Let the said order be complied with within a period of eight weeks of the receipt of copy

of this order.

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10. The present writ petition is disposed of in above terms.

May 20, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No