



CWP-14445-2000 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204 (A)

CWP-14445-2000 (O&M)
Date of Decision :14.08.2024

Balwan Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.N. Pillania, Advocate for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

Ms. Urvashi, Advocate for respondent No.3.

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Harsimran Singh Sethi, J. (Oral)

In the present petition, grievance of the petitioner is that the promotion of respondent No.3 to the post of Tehsildar as effected vide order dated 07.04.2000 (Annexure P/9) is bad and hence, the said promotion is liable to be set aside.

Certain facts may be mentioned for the correct appreciation of the issue in hand.

The respondent-State started the selection process for the post of Tehsildar and the respondent No.3 was selected on the said post on 25.09.1998. Said selection of respondent No.3 to the post of Tehsildar was challenged in CWP-19096-1998 and this Court vide order dated 19.04.1999



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declared the selection of the respondent No.3 to the post of Tehsilar as illegal and accordingly same was quashed.

Thereafter, respondent No.3 challenged the judgment of this Court before the Hon'ble Supreme Court of India in SLP 7110-7111 of 1999, which SLP was decided by the Hon'ble Supreme Court of India on 13.12.1999 wherein, a direction was given to the State to conduct a fresh selection process qua the post of Tehsildar within a period of three month without there being influenced by the judgment of the High Court.

Keeping in view the direction given by the Hon'ble Supreme Court vide order dated 13.12.1999, the respondents again conducted the selection process qua the post of Tehsildar and found the respondent No.3 as meritorious candidate to be selected and ultimately, he was selected and appointed vide order dated 07.04.2000, which order is under challenge in the present petition.

Learned counsel for the petitioner argues that the selection of respondent No.3 was bad as he was facing departmental proceedings on the date when he was appointed on 07.04.2000 hence, he could not have been selected/appointed as Tehsildar and therefore, said appointment of respondent No.3 is liable to be set aside.

Learned State counsel on the other hand submits that the selection process has been initiated and completed keeping in view the direction given by the Hon'ble Supreme Court of India vide order dated 13.12.1999 and keeping in view the fact that eligibility of the candidate was to be seen in the year 1998 and in the year 1998 the respondent No.3 was not facing any departmental proceedings, he was considered eligible and being

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meritorious, he has been selected and appointed on the post of Tehsildar hence, no grievance can be raised by the petitioner.

Learned counsel for the respondent No.3 submits that once, the respondent No.3 was initially selected and was again selected when the selection process was undertaken as per the judgment of the Hon'ble Supreme Court of India being not suitable, the petitioner, who competed for the post in question but failed, cannot raised any grievance.

Learned counsel for respondent No.3 further submits that as on the date when the eligibility was to be seen, there was no disciplinary proceedings pending against respondent No.3 and once the disciplinary proceeding were initiated after the cut off date, the said disciplinary proceedings cannot be taken into account to declare the respondent No.3 ineligible for the post in question.

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

Before proceeding further, it may be noticed that the present petition was filed in the year 2000 and both the petitioner as well as respondent No.3 have already retired from service and are getting pension but as learned counsel for the petitioner insisted to get an order on merit, present controversy is being adjudicated.

Question which has been posed before this Court is whether the respondent No.3 was eligible to be considered for selection/appointment to the post of Tehsildar or not.

It is a conceded position that a fresh selection, which took place was in pursuance to the direction given by the Hon'ble Supreme Court of

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India vide order dated 13.12.1999, which order is as under:-

“Counsel for the parties have agreed that a fresh selection should take place as directed by the High Court with regard to one vacancy of ‘B’ Class Tehsildar which was available as on 14.09.1998. This vacancy will be filled after all eligible candidates as on 14.09.1998 are informed and given sufficient time to apply for the same. The whole process be completed within free months from today. The selection will be done without being influenced by the judgment of the High Court. The special leave petitions are disposed off accordingly. The judgment with regard to the costs of the High Court is set aside.”

Bare perusal of the above said reproduction would show that the eligibility of the candidates was to be seen as on 14.09.1998. Once, the Hon’ble Supreme Court of India had directed that eligibility of the candidates, who are to be considered for selection/appointment as Tehsildar is to be seen as on 14.09.1998, it is a conceded position that on the said date, there were no departmental proceedings pending against respondent No.3 so as to declare him ineligible. Hence, as on the cut off date fixed by the Hon’ble Supreme Court of India to ensure the eligibility, the respondent No.3 was fully eligible on the said cut off date and he was rightly considered for the post in question and being meritorious had rightly been appointed on the post of Tehsildar.

It may be noticed that once, the cut off date mentioned to adjudge the eligibility of the candidates was 14.09.1998, serving of charge sheet upon respondent No.3. in the year 2000 will not come in the way of validity of his eligibility. The charge sheet was served upon respondent No.3 after the order of the Hon’ble Supreme Court of India hence, the said charge sheet has rightly been ignored by the respondents while considering



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respondent No.3 eligible to compete for the post in question.

Even otherwise, the said charge sheet issued to the respondent No.3 has already been dropped as the allegations were not proved.

Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

Civil miscellaneous application pending, if any, is also disposed of.

August 14, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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