

104

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1716-1997

Date of decision: 25.11.2024

MANGE RAM

...Petitioner(s)

VERSUS

HARYANA TOURISM CORPORATION LTD. AND ANR.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. B. K. Bagri, Advocate
for the petitioner.

Mr. Anil Sharma, Advocate
for respondent No.1.

JASGURPREET SINGH PURI, J. (Oral)

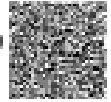
1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned orders dated 22.04.1996 (Annexure P-10) and dated 03.12.1996 (Annexure P-11), vide which the claim of the petitioner for promotion to the post of Manager-cum-Accountant with effect from 07.11.1990 has been rejected with a further prayer to direct respondent No.1 to consider and promote the petitioner to the post of Manager-cum-Accountant with effect from 07.11.1990 i.e. when private respondent No.2 was promoted along with all consequential benefits.

2. Learned counsel for the petitioner submitted that it is a case where the petitioner was working as a Counter Incharge and was appointed in the year



1981. He further submitted that the petitioner belonged to the reserved category and similarly, private respondent No.2 also belonged to the reserved category. He further submitted that the petitioner was not considered for being promoted and rather his junior i.e. respondent No.2 was promoted to the post of Manager-cum-Accountant. He further submitted that in this regard, the petitioner filed a writ petition bearing CWP-16843-1994 and a Division Bench of this Court vide Annexure P-9 dated 19.01.1996 directed the respondent-Corporation to consider the case of the petitioner for promotion as Manager-cum-Accountant with effect from the date person junior to him was promoted as such. He further submitted that thereafter, the impugned order dated 22.04.1996 (Annexure P-10) was passed by the Managing Director of the respondent-Corporation by stating that even if the case of the petitioner is considered for promotion on 07.11.1990, his ACRs were not upto the level of 70% and even thereafter, when his case for the second time was considered for promotion then at that point of time also his ACRs were not upto the level of 70%. He further submitted that the aforesaid impugned order has been passed in derogation of the instructions of the State of Haryana vide Annexure P-12 and Annexure P-13, whereby the percentage of ACRs to be taken into consideration was not 70% but was 50% and therefore, the aforesaid impugned order is erroneous and on this ground is also liable to be set aside.

3. On the other hand, learned counsel for respondent No.1 submitted that the impugned order dated 22.04.1996 (Annexure P-10) has been passed in pursuance of the directions issued by a Division Bench of this Court vide Annexure P-9 as aforesaid and therefore, no fault can be found in this regard.



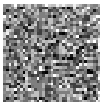
4. I have heard the learned counsels for the parties.

5. It is a case where the only grievance of the petitioner is that when the impugned order dated 22.04.1996 (Annexure P-10) was passed, the relevant appropriate instructions which were in vogue at that point of time were not considered by the concerned authority/Managing Director of the respondent-Corporation. Learned counsel for the petitioner has referred to Annexure P-12 and Annexure P-13 in this regard. A perusal of the same would show that the percentage of ACRs which has been considered was not 70% but was 50% upto 1984-1985. This Court is of the considered view that at least all the instructions which were available at that point of time and were operative to the respondent-Corporation were required to have been considered in accordance with law but no reference to the same has been made in the aforesaid impugned order in this regard.

6. During the course of arguments, learned counsel for the petitioner also submitted that the adverse ACRs were also not communicated to the petitioner.

7. In view of the aforesaid facts and circumstances, this Court is of the considered view that the impugned order dated 22.04.1996 (Annexure P-10) is liable to be set aside with a direction to the competent authority/Managing Director of the respondent-Corporation to further proceed in the matter.

8. Consequently, the present writ petition is allowed. The impugned order dated 22.04.1996 (Annexure P-10) is hereby set aside. The competent authority/Managing Director of the respondent-Corporation shall pass a well reasoned speaking order after hearing the petitioner or his counsel and also by



considering two aspects. Firstly, as to what were the rules/instructions prevalent at that point of time pertaining to the percentage as to whether it was 70% or some other parameter was fixed either by the State of Haryana, if at all applicable to the respondent-Corporation or not. Secondly, what was the effect of non-communication of the adverse ACRs to the petitioner, if any. The aforesaid order shall be passed within a period of four months from today. In case the petitioner is found entitled for the aforesaid benefit of promotion, then he shall be entitled for the notional benefits only for fixation of his retiral benefits.

25.11.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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