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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15681-1999 (O&M)
Date of decision: 23.09.2024

V.P. Kataria

...Petitioner

VERSUS

Haryana Agricultural Marketing Board and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Ravi Kapur, Advocate, for the petitioner.

Ms. Rajni Gupta, Advocate, for the respondent-Board.

JASGURPREET SINGH PURI, J. (Oral)

1. The present 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 of order dated 23.07.1999 (Annexues P-6), charge-sheet dated 06.09.1999 (Annexure P-8), orders dated 25.09.1999 (Annexure P-10) and 28.10.1999 (Annexure P-14) with a further prayer to promote the petitioner to the post of Co-ordination Officer.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner was appointed in the respondent-Board as Assistant and thereafter, he was promoted to the post of Deputy Superintendent and after that he was promoted to the post of Superintendent on 28.07.1995 and he joined on the aforesaid post of Superintendent on 31.07.1995. He submitted that vide

Annexure P-1, a decision was taken on 28.03.1975 with regard to creation of a



post of Co-ordination Officer in the pay scale of Rs. 600-35-740/40-1100. Thereafter even the pay scale was also revised vide Annexure P-4. The process of promotion to the aforesaid post of Co-ordination Officer started which is clear from Annexure P-6 whereby the private respondent namely, Sh. A.C. Pandir who was stated to be senior amongst the Superintendents/P.Ss in the Board and it was approved by the Board for the purpose of promotion of the aforesaid private respondent No.3. He submitted that the aforesaid private respondent was not senior to the petitioner and rather he was not even eligible for the aforesaid post but because he was working as a Private Secretary to the Chairman and it was only because of that reason in order to favour him the aforesaid approval was granted by the Board and in fact the petitioner was the senior most person in the category of Superintendent and therefore, he was entitled for the grant of promotion in this regard. However, the petitioner was denied the aforesaid promotion in the year 1999 when the aforesaid approval was granted by the Board pertaining to private respondent No.3.

3. Learned counsel further submitted that although the aforesaid order (Annexure P-6) was passed and approval was granted by the Board to promote the aforesaid private respondent but in fact the aforesaid order was never implemented and even the private respondent was also not promoted to the aforesaid post. He submitted that thereafter the petitioner was also served with a charge-sheet and in fact there was a bias against the petitioner in order to favour the private respondent and now the prayer made in the present petition is for quashing of order dated 23.07.1999 (Annexure P-6) and charge-sheet (Annexure P-8) and also a direction to promote the petitioner to the post of Coordination Officer.



4. On the other hand, Ms. Rajni Gupta, learned counsel appearing on behalf of the respondent-Board has referred to the written statement filed by the respondent-Board and has also referred to the preliminary objections taken in the aforesaid written statement which are reproduced as under:-

“PRELIMINARY OBJECTIONS:-

1. *That the present writ petition has been rendered infructuous. The post of Coordination Officer which is involved in this case has already been abolished by the respondents-Board vide its Resolution No.10 dated 23.12.99. Copy of this Resolution is attached herewith as Annexure R/1/1. Moreover the order of promotion of respondent No.3 for the post of Coordination Officer had never been issued and implemented by the respondents-Board.*
2. *That the present petition is liable to be dismissed on the ground of mis-joinder of cause of action and non-joinder of necessary parties. In the present petition, the petitioner has challenged the promotion of respondent No.3, the Charge Sheet issued to the petitioner and transfer order of the petitioner. All these actions constitute separate cause of action and, therefore, separate petition should have been filed for challenging the above actions. Secondly the necessary persons have not been impleaded as party in the petition. Although the petitioner has levelled allegations of malafide and favoritism against the Ex-Chairman of the Board- Sh. Ved Pal. Yet the petitioner has not impleaded him as party in the petition. In view of this situation the petition deserves to be dismissed outrightly.”*

5. While referring to the aforesaid written statement, she submitted that it is a case where the petitioner does not have any right at all for being considered for promotion to the post of Co-ordination Officer in view of the fact that the aforesaid post stood abolished vide Annexure R-1/1 way back on 23.12.1999 by way of resolution No.10 passed by the Board. The aforesaid



Annexure R-1/1 whereby the post of Co-ordination Officer was abolished in the year 1999 itself is also reproduced as under:-

“PROCEEDING OF 151ST MEETING OF HARYANA STATE AGRICULTURAL MARKETING BOARD, PANCHKULA HELD ON 23.12.1999 AT 12.00 NOON IN THE OFFICE OF BOARD.

Following were present:-

- | | | |
|-----|---|-------------------------|
| 1. | <i>Balwant Singh Mayana, MLA</i> | <i>Chairman</i> |
| | <i>Chairman of the Board</i> | |
| 2. | <i>Alok Nigam, IAS</i> | <i>Member</i> |
| | <i>Chief Administrator of the Board</i> | |
| 3. | <i>Sarban Singh, IAS</i> | <i>Member</i> |
| | <i>Director, Agriculture</i> | |
| 4. | <i>Dr. S.K. Dangi</i> | <i>Member</i> |
| | <i>Director, Animal Husbandry</i> | |
| 5. | <i>Ch. Bharat Singh</i> | <i>Member</i> |
| 6. | <i>Shyam Lal</i> | <i>Member</i> |
| 7. | <i>Rameshwar Dayal</i> | <i>Member</i> |
| 8. | <i>Rajinder Singh Sodha</i> | <i>Member</i> |
| 9. | <i>Jathedar Partap Singh</i> | <i>Member</i> |
| 10. | <i>Ch. Ram Dhari Singh Nain</i> | <i>Member</i> |
| 11. | <i>Dr. Kartar Singh</i> | <i>Special Invitee</i> |
| | <i>Director, Horticulture</i> | |
| 12. | <i>Har Parshad</i> | <i>Special Invitee</i> |
| | <i>Representative,</i> | |
| | <i>Advisor Marketing Board,</i> | |
| | <i>Govt. of India</i> | |
| 13. | <i>Neelam P. Kasni, HCS</i> | <i>Member Secretary</i> |
| | <i>Secretary of the Board</i> | |

Resolution No.1 to 9 :

XX XX XX XX

Resolution No.10 :

Requirement and qualification etc. for the post of Coordination Officer.

After deliberation and consideration it has been decided that this post be abolished.

Resolution No.11 to 13 :

XX XX XX XX

Be sent to the Govt. for approval.

Sd/-
Balwant Singh Mayana



6. Learned counsel for the respondent-Board further submitted that the aforesaid private respondent although was granted approval for promotion to the post of Co-ordination Officer in the year 1999 but he was never promoted to the aforesaid post because the post itself got abolished and thereafter no person has been promoted to the aforesaid post. She submitted that therefore the entire petition filed by the petitioner is misconceived and is unsustainable in law because there is no such post available in the respondent-Board and therefore, the present petition is liable to be dismissed.

7. At this stage, learned counsel for the petitioner has submitted that so far as Annexure R-1/1 is concerned, it so states that although approval was granted by the Board in the year 1999 but thereafter it has also been so stated that it be sent to the Government for approval but approval has not been obtained till date and therefore, it cannot be said that the post is not in existence.

8. I have heard the learned counsel for the parties.

9. It is a case where the petitioner is seeking consideration for promotion to the post of Co-ordination Officer which was created by the Board in the year 1999 but in the same year, the same was also abolished vide Annexure R-1/1. An argument has been raised by the learned counsel for the respondent-Board that the aforesaid approval was sent to the Government but approval has not been obtained till date. However, it is a case of both the learned counsels for the parties that even although the private respondent was granted approval for promotion to the post of Co-ordination Officer but in fact he was never promoted. Therefore, it is very clear that the aforesaid Annexure R-1/1 has been given effect to. The mere fact that the Government did not approve, although no document is placed on record but that would not make a



difference because in fact nobody was promoted to the aforesaid post at all at any point of time. The prayer of the petitioner in the present petition is for seeking consideration for promotion to the aforesaid post. Once the aforesaid post is not in existence, no direction can be issued to the respondent-Board in this regard. So far as the prayer of the petitioner for quashing of the order Annexure P-6 by which the promotion was approved with regard to the same is concerned, the same is also not sustainable because the aforesaid order admittedly was not given effect to.

10. In view of the aforesaid facts and circumstances, this Court is of the considered view that the present petition is devoid of any merit and the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

23.09.2024
rakesh

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