

204/1
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17144-1999 (O&M)
Date of Decision: 29.01.2024

Piara Singh
Vs.
State of Punjab and others
..... Petitioner
..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. N.K. Nagar, Advocate
for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner had the requisite qualification for promotion from Group D (class IV) to Class III. He was promoted as a clerk from 14.10.1980 on *ad hoc* basis on account of vacancies having fallen. However, respondent No.3 who was also a class IV employee and working in the District Office was not considered.
2. In the meanwhile, the petitioner had been confirmed on the post of Class III from 14.10.1980. Later on, respondent No.3 was also considered for promotion and was ordered to be promoted from 01.10.1980, and was further re-designated as senior clerk. The orders were passed in favour of respondent No.3 on 22.09.1995. Respondent No.3 was further given benefit of seniority and was given promotion from the date prior to the petitioner, and seniority of peons was taken into consideration for the purpose of maintaining *inter se* seniority.
3. Upon making promotions, the respondents further initiated action of revising the pay of the petitioner and also initiated proceedings for

recovery of the excess pay given on the ground that the promotion has to be given to respondent No.3 from the date the petitioner was promoted. The petitioner's promotion was shifted from 1980 to 01.01.1986 as a clerk; senior clerk from 01.01.1986 to 08.05.1993; and his promotion to the post of junior assistant was shifted from 08.05.1993 to 01.01.1994. Thus, the action of the respondents is challenged by the petitioner.

4. Counsel for respondent No.3 is not present.
5. Counsel for the State submits that as the case of respondent No.3 had not been considered erroneously at the time while granting promotion to the petitioner, in order to give him the benefit, the promotion of the petitioner was shifted.
6. I have considered the submissions. This Court finds that at the time when the petitioner was appointed on 14.10.1980, his promotion was not challenged by respondent No.3. His further promotion as senior clerk on 01.01.1986 was also not under challenge, nor his further promotion to the post of junior assistant was challenged in any Court of law. After 15 years, the respondents in order to give benefit to respondent No.3 have revised the earlier promotions without following basic principles of natural justice. A person who has been continuing on a higher post on substantive basis could not have been denied his status and ought not have been reverted from the said post resulting in reducing his pay. If any additional benefit was required to be given to a person who has been left out, the respondents could have only done so by creating a supernumerary post in favour of respondent No.3, but the promotion awarded to the petitioner could not have been withdrawn,

nor the same could have been changed arbitrarily, as has been done in the present case.

7. Learned counsel for the respondents states that the action was taken in compliance of the order passed by the Court in CWP-7937-1997. However this Court finds that such an order passed by the Court also required the respondents to examine whether the issue raised by the respondent could be dealt with after a delay of more than 15 years. Be that as it may, even if the relief was required to be given to respondent No.3, the benefit which has already been given to the petitioner was not required to be withdrawn.
8. In view thereof, the action of the respondents is held to be unjustified and the orders Annexure P-4, P-5, P-6, P-11 and P-12 are quashed and set aside. The petitioner would be entitled to be given all consequential benefits of the higher post which he had, as he had joined earlier. Since the recovery had already been stayed by this Court, the respondents are only required to now revive the salary of the petitioner which he was drawing on the post of junior assistant. The petitioner would however not claim seniority over the respondent No.3 on the post of junior assistant and afterwards.
9. Wit petition stands *allowed* in aforesaid terms.
10. All pending applications also stand disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

January 29, 2024

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |