

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024.PHHC.108517



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CWP No. 9199 of 2000 (O&M)
DECIDED ON: 20th August, 2024

Prabhjot Singh

.....PETITIONER

VERSUS

The State of Punjab and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Inderpreet Singh Kooner, Advocate for petitioner.
Mr. T.P.S. Chawla, Sr. DAG Punjab.

HARSIMRAN SINGH SETHI, J (ORAL)

In the present petition, the grievance being raised by the petitioner is that the petitioner is entitled for promotion to the post of Deputy Director which promotion was not given to the petitioner before he attained the age of superannuation and retired on 30.06.2000.

Learned counsel for the petitioner submits that the respondent had initiated the process for promotion to the post of Deputy Director in the year 1998 but, the said consideration was not finalized upto the date of retirement of petitioner i.e. 30.06.2000 and the promotion to the post of Deputy Director were made in December, 2000 by giving promotion to the juniors of the petitioner and therefore, the respondents are under obligation to grant the petitioner the benefit of promotion to the post of Deputy Director.

Further prayer of the petitioner is that in case the petitioner is not entitled for promotion as a Deputy Director as the petitioner has completed 8 years of service in the cadre of Assistant Director before his retirement in June, 2000, the respondents are liable to be directed to grant the petitioner the benefit of ACP in the cadre of Assistant Director and therefore, the respondents be directed to grant the same.

Upon notice of motion, the respondents have filed the reply wherein the respondents have submitted that though the process for effecting promotion to the post of Deputy Director was started in the year 1998 but keeping in view the ban imposed on promotion by the Hon'ble Supreme Court vide order dated 18.01.1999 while considering the implementation of the judgment in Ajit Singh Janjua's case which related to the reservation policy, no promotion could be made to the post of Deputy Director and after the clarification by the Hon'ble Supreme Court of India, the seniority list with regard to the cadre of Assistant Director was re-finalized and by the time, the claim of the petitioner could be considered for promotion, he had already retired on 30.06.2000 and the promotion to the post of Deputy Director was only made 6 months after his retirement after the finalization of the seniority list in the cadre of Assistant Director in December 2000.

With regard to the claim of the petitioner for grant of the ACP, the respondents have mentioned that for promotion to the post of Deputy Director, the record of the Assistant Director needs to be good keeping in view the instructions issued by the Government of Punjab but as overall service record of the petitioner for period of 1991-1992 to 1999-2000 was not good, the petitioner could not be granted the benefit of ACP, as he was not eligible for promotion and ACP can only be granted to an employee, who is eligible for promotion but is not being granted the same due to non-availability of vacancy.

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

The first question which arise for consideration is whether, the petitioner is entitled for promotion to the post of Deputy Director prior to the date of his retirement i.e. 30.06.2000. From the pleadings, it is clear that the respondents initiated the process for promotion to the post of Deputy Director, in

the year 1998 and keeping in view the order passed by the Hon'ble Supreme Court of India, wherein, the State was directed not to make any promotion. Keeping in view the fact that the grant of reservation while making promotion was pending consideration with the Hon'ble Supreme Court of India, no promotion was made. After the judgment dated 16.09.1999 of the Hon'ble Supreme Court of India, the respondents re-casted the seniority list in the cadre of Assistant Director and by the time, the said process was completed, the petitioner has already retired from service on 30.06.2000. The promotion were only effected in December, 2000. Hence, once no junior of the petitioner has been promoted in preference to the petitioner upto the date the petitioner remained in service, no grievance can be raised by the petitioner.

Even otherwise, the petitioner was not eligible for promotion as per the reply filed by the respondent-State, as according to the criteria framed by the State for effecting promotion to Class-I and Class-II post, the overall record of the employee should be good where as, over all record of the petitioner was not good keeping in view the avernment made in the written statement, which fact has gone un-rebutted. For this very purpose, as the petitioner was not eligible for promotion, he has not been granted even the ACP. Hence, once the record of the petitioner does not entitle him to promotion to the post of Deputy Director, no grievance can be raised by the petitioner either qua not granting the promotion to the post of Deputy Director or for the grant of ACP on completion of 8 years service in the cadre of Assistant Director.

No ground is made out for any interference by this Court.

Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

20th August, 2024
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