

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-2428-2004

Date of Decision: 22.04.2024

GANPAT SINGH

...Petitioner

Vs.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rajesh Kumar Girdhar, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed seeking a writ of *certiorari* quashing the order dated 04.10.2002, Annexure P-6, passed by respondent no. 2 whereby the petitioner's case for promotion to the post of Sub Divisional Engineer (SDE) has been rejected, and also for quashing another order, dated 06.06.1997, whereby persons junior to the petitioner have been promoted.

2. Briefly, as per the facts which are on record, the petitioner joined service as Junior Engineer in the Haryana Public Works Department (B&R) on 01.06.1971. He was placed at serial no. 137, in the seniority/gradation list prepared on 01.01.1993, whereas respondent nos. 4 and 5 were placed at serial no. 139 and 177 respectively, in that list. The petitioner was due for promotion to the post of Sub Divisional Engineer, and was considered for the purpose. However, vide order dated 06.06.1997, the private respondent nos. 4 and 5, despite being junior to the petitioner, were promoted ignoring his claim on the ground of being not suitable. No specific reasons were cited for his non-suitability. Accordingly, it is claimed that the petitioner, being senior, has a right to be promoted from the date his juniors

were promoted as Sub Divisional Engineer.

3. The Department has filed a detailed written statement, mentioning that the petitioner was duly considered for promotion as Sub Divisional Engineer by the screening committee in its meeting held on 13.05.1997. As per the minutes of the meeting, the petitioner had earned “4. *Very Good, 4-1/3 Good and 1-2/3 Awaited/not written report during last ten years. One enquiry case bearing No. 66-1C-R-95 under rule-7 was contemplated against the petitioner. In this case funds to the tune of Rs.15.59 lacs were misappropriated by way of preparation of MR, Bitumen, Bajri etc. There were remarks regarding doubtful integrity of the petitioner during the year 1972-73.*”

Accordingly, he was not found suitable for promotion in view of his overall service record.

4. Further, adverse remarks in his ACR for the year 1995-96 were expunged vide memo dated 25.02.2000, and the same was conveyed to the petitioner on 14.08.2000. The pending disciplinary enquiry was finalised by awarding punishment of stoppage of one increment without future effect and recovery of Rs.25,767/-, vide office order dated 17.08.2001, Annexure P-5. Accordingly, his claim for promotion as Sub Divisional Engineer from the date his juniors were promoted cannot be considered.

5. Learned counsel for the petitioner has contended that the adverse remarks in the ACR of the year 1995-96 were conveyed to him only on 07.07.1997 which were later expunged also, vide memo dated 25.05.2000. Accordingly, the same could not have been taken into account for denying him promotion from the date his juniors were promoted. Secondly, he

contends that the petitioner was issued charge-sheet on 23.12.1998, therefore, on 06.06.1997, when his juniors were promoted, there was no disciplinary enquiry pending against him and the promotion could not have been denied.

6. Learned State counsel on the contrary has relied upon the detailed written statement filed on behalf of the Department, to contend that the petitioner was rightly considered ineligible for promotion, keeping in view his service record for the relevant years.

7. Heard.

8. The petitioner has claimed promotion as Sub Divisional Engineer from the date his juniors were promoted, on 06.06.1997. The service record at the relevant time was duly considered, including the fact that a disciplinary enquiry had been contemplated against the petitioner at that time, for mis-appropriation of funds to the tune of Rs.15.59 lacs. Ultimately he was punished with stoppage of one increment without future effect and recovery of Rs.25,767/-. Remarks regarding his doubtful integrity in the year 1972-73 were also taken into account. Considering these facts, the screening committee found him not eligible for promotion as Sub Divisional Engineer on 06.06.1997. The adverse remarks for the year 1995-96 conveyed to the petitioner on 07.07.1997 and later expunged on 25.05.2000, were not taken into account while considering him for promotion. Besides, issuing of chargesheet on 23.12.1998, cannot be a circumstance which would entitle the petitioner to claim promotion from the date his juniors were promoted, i.e., on 06.06.1997, because he had been duly considered for promotion at that time and was not found suitable. The contemplated disciplinary enquiry was also taken into account which finally resulted in award of punishment to him.

It is not a case that he was absolved of the charges, which would have entitled him to claim promotion from the date his juniors were promoted.

9. Accordingly, there is no merit in the petition, and it stands dismissed.

(TRIBHUVAN DAHIYA)
(JUDGE)

22.04.2024

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