

LPA-1637-2023 (O&M)

2024:PHHC:120249-DB



105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-1637-LPA-2023 in/and
LPA-1637-2023
Date of Decision: September 12, 2024

Swaran SinghAppellant
Versus
Food of Corporation of India and others Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Ravi Malhotra, Advocate for the appellant.
Mr. Ravi Kamal Gupta, Advocate for the respondents.

LISA GILL, J.

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1. Heard.
2. For reasons mentioned in the application as well as arguments addressed, delay of 134 days in re-filing the appeal is condoned.
3. Application is, accordingly, disposed of.

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1. Prayer in this appeal is for setting aside order dated 01.02.2023 passed by learned Single Judge whereby CWP-19954-2021 filed by appellant (writ petitioner) was dismissed.
2. Appellant (writ petitioner) filed CWP-19554-2021 seeking promotion w.e.f. 2001 on the rank of Assistant Grade II(D), Assistant Grade I(D) and Manager (D) claiming that all similarly situated/juniors persons had

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been promoted and infact appellant had also been promoted alongwith but promotion order dated 15.02.2002 was never conveyed to him.

3. Appellant (writ petitioner) appointed as Assistant Grade III(D) with FCI, joined services on 13.05.1985. He retired from service on 31.08.2018 and petition claiming promotion was filed on 17.08.2021. Learned Single Bench while considering the facts and circumstances found no ground for interference in the matter where appellant (writ petitioner) was seeking benefit of promotion from the year 2002 but apparently had raised no such grouse during his service. In fact, little time before his retirement, writ petitioner is stated to have submitted some representations. Finding no merit, writ petition was dismissed by learned Single Bench. Aggrieved therefrom, present appeal has been filed.

4. Learned counsel for appellant vehemently argues that learned Single Bench has grossly erred in dismissing the writ petition filed by the appellant as it is apparent that vide order dated 31.12.2001 appellant was infact promoted to the post in question. This promotion order was never ever conveyed to him at any point of time. He further refers to inter departmental communication dated 10.12.2001 (Annexure P11) to submit that action of respondents in not actually promoting the appellant in 2002 only on the ground that certain recovery proceedings were pending against appellant, is absolutely unjustified and infact illegal. It is, thus, prayed that this appeal be allowed.

5. Learned counsel for respondents (on advance notice) has opposed the appeal while submitting that order passed by learned Single Bench has been passed after proper consideration of the fact and circumstances of the matter. Dismissal of appeal has been prayed for.

6. Having heard learned counsel for parties and perusing the file, we do not find any ground whatsoever to cause interference in this matter.

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Appellant was admittedly appointed with FCI in 1985 and retired from service on 31.08.2018. Claim for promotion from the year 2001 is being raised, when similarly situated persons/juniors of appellant are stated to have been promoted. It is a matter of record that appellant did not choose to challenge promotion of said similarly situated persons for long years till just before his retirement purportedly submitting representations in May and July, 2018. Reliance by learned counsel for appellant on communication dated 10.12.2001 is clearly misplaced inasmuch as appellant had chosen to remain silent on this aspect for such long years. It is a settled position of law that claims qua seniority should not be entertained at a belated stage. Gainful reference in this regard can be made to decision of Hon'ble the Supreme Court in **K.R. Mudgal versus R.P. Singh 1986 (4)SCC 531**, **B.S. Bajwa versus State of Punjab 1998 (2) SCC 523** and **Bichitrananda Behera vs State of Orissa and others 2023 AIR Supreme Court 5064**.

7. Learned counsel for appellant is unable to point out any infirmity or irregularity in impugned order dated 01.02.2023 which calls for interference.

8. No other argument has been raised.

9. In the given facts and circumstances as above, impugned order dated 01.02.2023 is upheld. Appeal is, accordingly, dismissed being devoid of any merit.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

September 12, 2024
Rts

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