

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(130) CWP No. 7334 of 2024
Date of Decision : 01.04.2024
Raj Kumar ...Petitioner

Versus
State of Haryana and others ...Respondents

(131) CWP No. 7335 of 2024
Vinod Dalal ...Petitioner

Versus
State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Thakan, Advocate for the petitioner(s).
Mr. Tapan Kumar Yadav, Deputy Advocate General,
Haryana.

Harsimran Singh Sethi J. (Oral)

By this common order, two writ petitions, the details of which have been given in the heading, are being decided as both these petitions involve the same question of law on similar facts.

For the sake of convenience, the facts are being taken from CWP No. 7334 of 2024.

Learned counsel for the petitioner submits that the petitioner is working on the post of Kanungo and is further entitled for promotion to the post of Naib Tehsildar and in order to become eligible for promotion to the post of Naib Tehsildar, an employee working as Kanungo has to

clear a departmental test for which the petitioner had made an application. Learned counsel for the petitioner submits that the petitioner is not being allowed to appear in the examination, which is scheduled to be held on 02.04.2024, only on the ground that the promotion of the petitioner to the post of Kanungo is under litigation at the hands of another employee. Learned counsel for the petitioner submits that once the petitioner is only seeking permission to appear in the departmental examination so as to gain the eligibility for promotion and it is a conceded position that as of now the petitioner is working as a Kanungo, the respondents are under obligation to grant the petitioner the benefit of appearing in the said departmental examination.

Notice of motion.

On the asking of the Court, Mr. Tapan Kumar Yadav, learned Deputy Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

Learned counsel for the respondents submits that the promotion of the petitioner as a Kanungo is under litigation and once, it is not clear as to whether the said promotion is valid, the petitioner cannot be allowed to compete for further promotion to the post of Naib Tehsildar.

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

In the present petition, the petitioner is not seeking further promotion as Naib Tehsildar but is only seeking permission to appear in the departmental examination so as to become eligible for promotion to

the post of Naib Tehsildar. The question as to whether the petitioner is eligible for promotion to the post of Naib Tehsildar or not, will only be ascertained after the petitioner clears the departmental examination prescribed for the Kanungo to gain eligibility for promotion to the post of Naib Tehsildar.

Keeping in view the above, once the petitioner is working as Kanungo, merely that there is a litigation qua the said promotion, the petitioner cannot be denied the right to gain eligibility for further promotion to the post of Naib Tehsildar. Hence, the respondents are directed that the petitioner be allowed to appear in the departmental examination fixed for 02.04.2024.

It is made clear that petitioner is only being allowed to appear in the departmental examination. No observation is being made qua the entitlement of the petitioner to claim further promotion. In case, petitioner clears the departmental examination then also department will be free to examine the issue as to whether the petitioner is entitled for promotion to the post of Naib Tehsildar or not.

Both the petitions are disposed of in above terms.

A photocopy of this order be placed on the file of connected cases.

April 1st, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No