

2024:PHHC:072384-DB



Neutral Citation No.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108)

LPA-356-2024 (O&M)
Decided on : 22.05.2024

Maninderjit Singh

.....Appellant(s)

Versus

Punjab Mandi Board & another

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr.Hitender Kansal, Advocate, for
Mr.Gagneshwar Walia, Advocate, for the appellant(s).

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-828-LPA-2024

1. Application for condoning the delay of 269 days in refiling the present appeal is allowed, in view of the averments made in the application. Delay of 269 days in refiling the present appeal is hereby condoned.

2. CM stands disposed of.

CM-829-LPA-2024

3. Application for condoning the delay of 31 days in filing the present appeal is allowed, in view of the averments made in the application duly supported by affidavit of the appellant. Delay of 31 days in filing the present appeal is hereby condoned.

4. CM stands disposed of.

LPA-356-2024 (O&M)

5. Consideration in the present appeal is to the judgment passed by the Learned Single Judge in CWP-471-2023 whereby the writ petition was dismissed on 24.01.2023.

6. The Learned Single Judge found that the claim for promotion from the date his juniors were promoted, was rejected on the ground that the punishment of stoppage of one increment without cumulative effect was imposed upon the appellant after he was charge-sheeted on 12.12.2017. He was working on the post of District Mandi Officer and thus, promoted only in

the subsequent meeting of the Departmental Promotion Committee (DPC) held on 27.12.2019 w.e.f. 25.02.2020. The rejection was on account of Clause 17.6.2 of the instructions issued by the DPC which provided such a course of action that the findings of the sealed cover would not be acted upon and the case of promotion would be considered in the next DPC in the normal course. The argument of double jeopardy was repelled keeping in view the judgment of the Apex Court in **Union of India Vs. K.V.Jankiraman, 1991 (4) SCC 109** and **State of Tamil Nadu Vs. Thiru K.S.Murugesan, 1995 (3) SCC 273**.

7. Counsel has thus submitted that it was only an minor penalty imposed upon the appellant and the writ petition could have been allowed.

8. A perusal of the order under challenge dated 18.10.2022 (Annexure P-10) would go on to show that it was noticed that there was a charge against the present appellant that he remains drunk during office hours and misbehaved with other employees. It was only on account of statement of 2 women employees that they do not want any action to be taken on their representation as they had made a compromise with the appellant on account of his ill health and personal reasons, a lesser punishment was imposed. The promotion was accordingly deferred for a subsequent point of time, keeping in view the State guidelines which were not subject matter of challenge at any point of time. The appellant on account of having been charge-sheeted for major penalty, his promotion order was kept in sealed cover and it is on that basis the benefit of promotion could not be granted at the time when his juniors were promoted. The benefit has not been granted as per the regulation and the view taken by the Learned Single Judge is in consonance with the law settled by the Apex Court.

9. Accordingly, in such circumstances, we do not find any plausible reason to interfere with the judgment of the Learned Single Judge. Resultantly, the present appeal is dismissed in limine. All pending application(s) also stand dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

22.05.2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No