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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(202) CWP-1756-2000
Date of Decision : November 14, 2024

Ashwani Kumar and others .. Petitioners

Versus

State of Punjab and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sanjeev Sharma, Advocate, for the petitioners.

Mr. Swapan Shorey, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioners is that vide order dated 03.02.2000, copy of which has been appended with this petition as Annexure P-3, the petitioners have wrongly been reverted from the post of Senior Assistant to that of Clerk, which is arbitrary and illegal.

2. Learned counsel for the petitioners argues that the petitioners were promoted to the post of Senior Assistant vide order dated 30.07.1996 though subject to certain conditions but keeping in view the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.11660 of 1995 titled as Saroj Rani and others vs. State of Punjab and others, decided on 24.08.1999***, the petitioners who had qualified the Assistant Grade

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Examination, were entitled to be adjusted against the vacancy meant for qualified Clerks, which had already existed upto 21.01.1999 whereas, the petitioners have not been granted the said benefit and the petitioners have been reverted only to adjust the exemptees.

3. Learned counsel for the petitioners further submits that without ascertaining the availability of the vacancy, the exemptees, only on the basis of the seniority, have been granted the benefit of adjustment as Assistant so as to revert the petitioners by stating that no vacancy was available for their promotion under 30% quota.

4. Upon notice of motion, the respondents have filed the reply wherein, they have mentioned that the petitioners were promoted in the year 1996 with certain conditions that the said promotion is subject to the order to be passed keeping in view the litigation where, the withdrawal of the Assistant Grade Examination on 21.01.1991 was under litigation.

5. As per the reply, the vacancies have been filled up keeping in view the judgment of the Hon'ble Supreme Court of India in **Saroj Rani's case (supra)** and after granting the benefit to the exemptees as well as to the Clerks who qualified the Assistant Grade Examination in the ratio of 70/30 respectively, there was no vacancy available for adjustment of the petitioners and that is why, they were reverted to the post of Clerk.

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

7. The argument of the learned counsel for the petitioner hinges upon the order passed by the Hon'ble Supreme Court of India in **Saroj Rani's case (supra)**. The same is reproduced hereunder for the ready



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reference:-

“ (1) All vacancies on the post of Assistants/ Senior Assistants prior to 21st January 1991, are to be filled up by those who qualified by passing the examination and exemptees who qualified by passing the examination and exemptees would have no claim on such vacancies.

(2) All vacancies after 21st January 1991 shall be filled in the ratio of 70 percent and 30 percent between exemptees and qualifiers in the examination, respectively, for each year in question till all the existing qualifiers are absorbed.

(3) All promotions or reversions made has to be readjusted within the aforesaid framework, irrespective of any interim orders then in force.

(4) Any incumbent who worked on the post of Assistant/ Senior Assistant on account of promotion orders and in case they have to be reverted or have been reverted, any salary or consequential amount paid to such employees for working on the post of Assistant/ Senior Assistant shall not be taken back from them. Similarly, if any employees gets promotion to the post of Assistant/ Senior Assistant from an early date, he/she will not be entitled for any arrears of salary.

(5) State shall complete this exercise of promotion on the above said formula on or before the 31st December 1999, till then the existing arrangement shall continue.

(6) So far two appellants in the appeal of Ravi Lamba, since they were promoted prior to 21st January 1991 for which there is no dispute and their reversion order being held illegal, they may be promoted forthwith and they may not be asked to wait for the final exercise of promotion in all other cases.”

8. A bare perusal of the above order would show that any post which of the Assistant/Senior Assistant, which came into being prior to 21.01.1991, is to be filled only from the Clerk, who had qualified the

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Assistant Grade Examination. After the withdrawal of the Assistant Grade Examination on 21.01.1991, the posts of Assistant/Senior Assistant are to be filled in the ration of 70:30 between the exemptees and the qualifier respectively. Meaning thereby that after 21.01.1991, a post occurs, is to be filled 70% from the exemptees and 30% from the Clerks who qualified the Assistant Grade Examination till all the qualifiers are adjusted.

9. In order to implement the said directions, the respondents undertook the exercise of revising the date of the promotion of the exemptees as well as the Clerks who were promoted on the basis of passing of the Assistant Grade Examination.

10. A bare perusal of the impugned order would show that the Clerks, who were promoted on the basis of the seniority without passing the Assistant Grade Examination, their dates of promotion have been revised subsequent to 21.01.1991. After adjusting the seniors by giving them 70% of the posts, the petitioners, who were beyond the quota of 30%, could not be adjusted. In the impugned order, it has been clearly mentioned that due to the non-availability of the vacancies of the Senior Assistant qua the qualified Clerks, who had cleared the Assistant Grade Examination, the petitioners were reverted with the condition that as and when any vacancy in their quota will come into being, the petitioners will be considered for promotion. Once the respondents have only implemented the judgment in ***Saroj Rani's case (supra)***, no grievance can be raised by the petitioners.

11. Learned counsel for the petitioners has further raised an argument that the exemptees have been adjusted against the vacancies

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which had come into being prior to 21.01.1991.

12. On being asked to point out the data as to how the said argument has been raised, learned counsel for the petitioners has not been able to substantiate the said arguments on the basis of the facts/documents on record. Nothing has been shown to this Court that any exemptee has been given a date of promotion prior to 21.03.1991.

13. That being so, the said argument that the exemptees have been adjusted against the vacancies which had come prior to 21.01.1991 by ignoring/violating the order passed by the Hon'ble Supreme Court of India in ***Saroj Rani's case (supra)***, is not made out.

14. The last argument which has been raised by the learned counsel for the petitioners is that certain non-qualified Clerks were promoted and keeping in view the judgment of the Hon'ble Supreme Court of India in ***Saroj Rani's case (supra)***, their dates of promotion were changed and the resulted vacancies were to be given to the petitioners, have not been given.

15. On being asked to point out as to what was the cadre strength and how the said argument has been raised to show that any vacancy of Assistant was available after the adjustment of the exemptees Clerks, learned counsel for the petitioners has not been able to show any fact.

16. Rather, the respondents in their reply, has given the dates of filling up the post which had come into being after the year 1991 in paragraph 11 of the reply, which fact has gone un-rebutted.

17. Keeping in view the above, no ground is made out for any interference by this Court in the facts and circumstances of the present case.



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18. Accordingly, the writ petition is dismissed.

November 14, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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