

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

CWP-14928-2005 (O&M)
Date of Decision: 30.09.2024

Attar Singh Dhania

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Samrat Malik, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

Mr. NR Dahia, Advocate for respondent No.5.

AMAN CHAUDHARY, J.

1. The challenge is to the impugned orders dated 08.06.2005 and 11.08.2005, whereby promotion to the post of Clerk has been denied to the petitioner, which he claimed from the date that of his juniors.
2. The petitioner, while working on regular basis as Peon (Sewadar) since 05.02.1979 was, due to his involvement in criminal case, suspended on 25.11.1986, wherein he though initially was convicted on 04.02.1988 by the Court of Sessions, gained acquittal from this Court in CRA-89-SB-1988 vide judgment dated 23.10.2002, based on which he was reinstated w.e.f. 29.08.2003. The period of his suspension was also considered as on duty for all intents and purposes and was granted all benefits at par with other regular Sewadars.
3. Pertinently, four of his juniors were promoted to the post of Clerk vide order dated 18.02.1993, however, the petitioner was not considered for the same on the sole premise of he being placed under suspension at the time.

4. Consequent to the abolition of Octroi posts, surplus employees of the Municipal Committees were adjusted in other departments, pursuant thereto the petitioner was adjusted in the Industrial Training and Vocational Education Department vide letter dated 06.03.2000, on the post of officiating Chowkidar, while under suspension.

5. The respondent in **Punjab State Electricity Board vs. Ashok Kumar¹**, against which no LPA was filed, was ignored due to involvement in a case that was found to be not proved later on and suspension period treated as spent on duty, whereafter a suit for declaration was filed against the orders of rejection for retrospective notional promotion from the date juniors were promoted. This Court thus observed that once the claim of the employee for reinstatement with all consequential benefits is decreed, he is entitled to promotion from the date of his juniors.

6. The petitioner in **Baljit Kumar vs. State of Punjab²**, against which no challenge has been made, having been denied promotion due to a pending chargesheet, was eventually exonerated after the charges were withdrawn, despite which he was unjustly overlooked for promotion, while his juniors were both promoted and regularized. This Court held him entitled to be treated on par with the juniors granting him the same benefits. Further directed his promotion as Trust Engineer on an ad-hoc basis from the date of his juniors and on a regular basis once their promotions were regularized, as also entitled to all consequential benefits, including pay, increments, and seniority in the same cadre.

7. Whilst following the dictum of law laid down in **Union of India vs. K.V. Jankiraman³**, Hon'ble the Supreme Court in **Gurpal Singh vs. High Court of Judicature for Rajasthan⁴**, which is intrinsically applicable to the present

¹ 2006 (1) SCT 674.

² CWP-35402-2019, decided on 26.07.2024.

³ 1991(4) SCC 109

⁴ (2012) 13 SCC 94

case, inasmuch as the non-consideration for promotion therein, while granting to person junior, was due to the pendency of criminal and departmental proceedings, ergo he upon being absolved and exonerated therefrom, was held to be entitled for promotion notionally from their dates.

8. An employee once acquitted and reinstated in service, that too for all intents and purposes by treating the period of suspension as on duty, entitles him to also the benefit, which, at the relevant time was granted to his juniors, while he was deprived of the same on account of the said proceedings, particularly when the Department did not choose to initiate any disciplinary proceedings.

9. On the aforesaid anvil and as a fall out thereof, the impugned orders dated 08.06.2005 and 11.08.2005 are set aside and the respondents are directed to consider the petitioner at par with his juniors by adjusting him on the same post as them, though on notional basis, within a period of two months.

(AMAN CHAUDHARY)
JUDGE

30.09.2024
ashok

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