



CWP-9576-2020 (O&M) & connected case 1

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

**(249) CWP-9576-2020 (O&M)
Date of Decision : October 15, 2024**

Ashok Kumar and another .. Petitioners

Versus

State of Punjab and others .. Respondents

(249-2) CWP-9076-2021 (O&M)

Ashok Kumar .. Petitioner

Versus

State of Punjab and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dinesh Kumar, Advocate, for
Mr. Manish Kumar Singla, Advocate, for the petitioners
in CWP-9576-2020.

Mr. Ritesh Aggarwal, Advocate, for the petitioner
in CWP-9076-2021.

Mr. Arun Gupta, Deputy Advocate General, Punjab.

Mr. Ranjit Singh Kalra, Advocate, and
Mr. Karan Sharma, Advocate, for respondent No.4
in both cases.

HARSIMRAN SINGH SETHI J. (ORAL)

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

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2. In the present writ petitions, the prayer of the petitioners is for quashing the order dated 16.06.2020 (Annexure P-3) by which, respondent No.4 has been promoted as Senior Assistant with effect from the date persons junior to her were promoted.

3. Learned counsel for the petitioners argues that when the promotions of the Senior Assistant were made in September 2010, the claim of private respondent No.4 was considered but keeping in view adverse remarks in her confidential report, she was ignored and later on, even the representation filed by respondent No.4 against the adverse remarks was rejected but still, respondent No.4 has been promoted as Senior Assistant with retrospective effect from 01.09.2010, which is arbitrary and illegal.

4. Upon notice of motion, the respondents have filed the reply wherein, they have stated that the ACR which is being taken as adverse, in fact records the overall assessment of the respondent No.4 as “good” and only comments against which the representation was made stated that “she consider herself as best”, which is not an adverse remarks but only an opinion of the recording officer qua respondent No.4.

5. Learned counsel for the respondent-State submits that with regard to the other comments that “she has no good dealing with the other employees”, the same was being treated as adverse.

6. Learned counsel appearing on behalf of respondent No.4 submits that once the overall gradation of respondent No.4 in the ACR has been treated as “good” and the comments of the recording officer are not adverse but only his opinion, accordingly respondent No.4 has rightly been granted promotion as Senior Assistant w.e.f. the date employees junior to her were promoted.

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

8. It is a conceded fact that the ACR for the period 2007-08 is “good”. Certain observations were recorded by the Officer concerned qua the conduct of respondent No.4. The same have already been mentioned hereinbefore. The said remarks does not reflect in any way that the respondent No.4 is to be treated unfit for promotion especially when overall assessment of respondent No.4 for a particular years has been ranked as “good”. Hence, the declining of promotion to the respondent No.4 on the basis of the observation of the recording officer in the ACR for the year 2007-08 was not correct and the same has rightly been rectified by the office while granting her retrospective promotion to the post of Senior Assistant from the date juniors were promoted.

9. The argument of the learned counsel for the petitioners that even the representation of respondent No.4 for expunging the adverse remarks has been rejected, it may be noticed that remarks are not adverse so as to reflect upon the integrity and quality of the work being discharged by respondent No.4. Once, there are no such comments qua the capability of the respondent No.4 to discharge her duties, the same cannot be treated as adverse so as to deny the promotion.

10. No other argument was raised.

11. 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.

12. Both the writ petitions are dismissed.

13. Civil miscellaneous application pending if any, also stands disposed of.



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14. A photocopy of this order be placed on the file of other connected case.

October 15, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No