

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217

CWP-10521-2019

Date of Decision :04.03.2024

Narender Kumar

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gaurav Gupta, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

* * *

Harsimran Singh Sethi, J. (Oral)

1. Learned counsel for the petitioner submits that in the present petition, claim of the petitioner is that though, the junior of the petitioner was promoted to the post of Mechanic on 14.12.2012 but the petitioner was not granted the said benefit on the ground that certain disciplinary proceedings were pending against him. Learned counsel for the petitioner further submits that as the said disciplinary proceedings pending against the petitioner, were dropped by the respondents vide order dated 08.05.2015 (Annexure P/1) and period of absence from duty has been treated as earned leave or half pay leave, as the case may be, hence, the petitioner was entitled for consideration of his claim for promotion to the post of Mechanic with retrospective effect.

2. Learned counsel for the respondents on the other hand submits

that service record of the petitioner was not good and in the year 2012, the petitioner was facing another charge sheet for remaining absent from duty from 24.09.2009 to 24.02.2010 and it was only after the decision of the said charge sheet, the petitioner has been given benefit of promotion but prospectively.

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

4. In case benefit of promotion to an employee is withheld due to the pendency of the disciplinary proceedings, after the culmination of those disciplinary proceedings, action is to be taken keeping in view the decision which the department has taken in those disciplinary proceedings and in case, an employee gets exonerated, he/she is entitled for the grant of all benefits retrospectively and in case, an employees gets punished, he/she will only get the benefits prospectively.

5. In the present case, though vide order dated 08.05.2015 (AnnexureP/1) absence from duty period of the petitioner has been regularized but nothing has come on record as to whether the petitioner was imposed any punishment or not. Keeping in view the ambiguity in the facts, present petition is disposed of with the direction to the respondents to consider the claim of the petitioner as to whether he is entitled for the grant of benefit of promotion to the post of Mechanic from the date an employee junior to him was promoted by granting him promotion retrospectively by passing an appropriate order within a period of 08 weeks from the date of receipt of copy of this order. It may be noticed that while considering the claim of the petitioner for promotion, order dated 08.05.2015 (Annexure P/1) passed by the respondents by which, absence from duty period of the

petitioner from 24.09.2009 to 24.02.2010 has been treated as earned leave or half pay leave, should be kept in mind.

6. Present petition stands disposed of in above terms.

March 04, 2024
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

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