

LPA-596-2022

2024.PHHC.136419-DB



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

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Date of Decision: October 18, 2024

Smt. Surinder Pal Kaur

..... Appellant

Versus

State of Punjab and another

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. H.S. Sirohi, Advocate for the appellant.

Mr. Rohit Ahuja, DAG, Punjab.

LISA GILL, J.

1. Prayer in this appeal is for setting aside orders dated 04.12.2020 and 25.04.2022 passed by learned Single Bench whereby CWP-14298-2019 and RA-CW-269-2021 filed by appellant (writ petitioner) were dismissed.

2. Appellant (writ petitioner) filed the abovesaid writ petition for setting aside order dated 04.01.2019 passed by Director, Department of Social Security Women and Child Development, Punjab wherein writ petitioner's claim for promotion to the post of Supervisor from the year 1996-97 was rejected. Writ petitioner was initially appointed as Bal Sewika on 89 days basis vide order dated 24.04.1992. Her services were regularized w.e.f. 18.01.1995

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vide order dated 30.11.1995. It is the case of appellant (writ petitioner) that requirement of 8 years' experience for Bal Sewika's to be promoted against 5% quota came into existence with the promulgation of Punjab Social Security and Development of Women and Children (Group C) Non-Ministerial Service Rules, 2001 (for short – '2001 Rules'), notified on 12.03.2001. Prior thereto, as per instructions dated 16.10.1996, there was no requirement of 8 years' experience at the post of Bal Sewika for promotion to the post of Supervisor. It was asserted that despite 27 vacancies of Supervisors being available under promotion quota of Bal Sewikas, writ petitioner was not considered and promoted as Supervisor in the year 1996 and was promoted only on 03.10.2008 whereas she was entitled for notional promotion w.e.f. the year 1996 itself. CWP-8344-2011 filed by the writ petitioner was dismissed as withdrawn on 09.08.2018 with a direction to Director, Department of Social Security Women and Child Development, Punjab to treat the copy of the writ petition as representation and decide the same by passing a speaking order within six weeks. In compliance of said order, impugned order dated 04.01.2019 was passed, rejecting the claim set up by the writ petitioner. Aggrieved therefrom, CWP-14298-2019 was filed. Same was contested by the respondents with a detailed reply being filed on behalf of respondents No. 1 and 2 with a specific plea that there was no availability of posts from the year 1997 to 2006, due to which no Bal Sewika was promoted to the post of Supervisor in the interregnum and furthermore no junior to the writ petitioner had been promoted. Learned Single Bench while considering the facts and circumstances, found no merit in the claim raised by writ petitioner thereby dismissed the writ petition. Review application filed by the appellant was also dismissed by learned Single Bench on 25.04.2022. Aggrieved therefrom, present appeal has been filed.

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3. Learned counsel for appellant vehemently argued that learned Single Bench has erred in passing impugned order dated 04.12.2020 dismissing the writ petition filed by the present appellant. It was submitted that respondent No. 2 had been directed by this Court on 09.08.2018 to consider the appellant's claim in the light of instructions dated 16.10.1996. However, respondent No. 2 passed impugned order dated 04.01.2019 by completely ignoring the said instructions. It is to be noted at this stage that 2001 Rules notified on 12.03.2001 provided that 75% of the post of Supervisors are to be filled by way of promotion out of which 5% quota is to be filled by promotion amongst Bal Sewikas and Gram Sewikas with an experience of 8 years. It was argued that respondent No. 2 mentioned 417 posts of supervisors upto 25.09.1996 in the impugned order with 49 new posts of Supervisors being created on 31.08.2006, however, there is deliberate omission about mention of posts created and filled in between. Creation of various posts including 74 posts of Supervisors was ordered by the Governor of Punjab and as conveyed vide memo dated 17.12.1996. 8 officials were promoted to the post of Child Development Project Officers vide order dated 30.10.1996 due to which 8 posts of Supervisors fell vacant, 18 Supervisors were promoted to the post of Child Development Project Officers against direct recruitment quota vide order dated 14.01.1997, 10 Supervisors were promoted to the post of ACD(PC) vide order dated 07.02.1997, therefore, 534 posts of Supervisors were available upto 07.02.1997 out of which only 27 posts were in the quota of Bal Sewikas, however, only 20 posts were filled. Reference was made by learned counsel for appellant to decision dated 19.05.2005 in CWP-1926-1996 and other connected 65 writ petitions. In compliance of said order, a Committee to inquire into the selection/promotion of Supervisors was constituted. It was submitted that as per

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the Report submitted by Mr. Satish Chandra, IAS entrusted with responsibility of looking into the selection, serious irregularities were found in the selection. It was further submitted that instead of terminating the illegal appointees, as per Report of the Committee, 74 Anganwari workers were promoted as Supervisors during the year 2008. Promotion of Anganwari workers as Supervisors was in excess of its quota. In case, 74 more Anganwari workers were promoted, then it was incumbent upon respondents to have promoted 3 more Bal Sewikas to maintain the ratio of quota. In this manner, appellant (writ petitioner), it was urged was required to be considered for promotion to the post of Supervisor w.e.f. 01.01.1997. Learned counsel for appellant also argued that the petitioner was appointed as Bal Sewika on 20.04.1992. She had completed her 8 years' experience on 20.04.2000 but she was promoted only in the year 2008. It was, thus, prayed that this appeal be allowed and impugned order dated 04.12.2020 be set aside with the writ petition filed by the present appellant being allowed as prayed for.

4. Learned counsel for respondents has refuted the arguments as raised by learned counsel for appellant while submitting that the impugned order has been correctly passed. Dismissal of the appeal was prayed for.

5. It is a matter of record that appellant (writ petitioner) was appointed as Bal Sewika on 20.04.1992 on adhoc basis and her services were regularized w.e.f. 18.01.1995. As per circular dated 14.06.1989, Bal Sewikas with 8 years' experience were eligible for promotion to the post of Supervisor against 5% quota reserved for them. As per Memo dated 16.10.1996, 5% of promotions to the post of Supervisor, it was contended, were to be made amongst Bal Sewika/Gram Sewikas on merit-cum-seniority basis. Appellant (writ petitioner) claimed that despite availability of posts and her entitlement to

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promotion w.e.f. 1996, she was afforded promotion on 03.10.2008 only. As per impugned order dated 07.01.2018 passed in compliance of order dated 09.08.2018 in CWP-8344-2011, it was concluded that promotion to the post of Supervisor has been correctly given to the appellant on 03.10.2008.

6. It is specifically mentioned in reply to the writ petition filed on behalf of the respondents that till the year 1997-98, there were total 753 posts of Supervisors, 5% thereof is equal to 37 posts. In accordance with the instructions involved, 20 Bal Sewikas, who were placed at serial No. 21 to 44 of seniority list of Bal Sewikas were promoted and one post was kept vacant/in abeyance for Davinder Kaur at serial No. 31 in the seniority list due to pendency of departmental proceedings against her. Appellant was admittedly at serial No. 47 in the seniority list. It is further revealed in the reply that 49 Supervisors who were promoted from Bal Sewikas were working with the Department in the year 1997-98. Six of them were promoted as Child Development Project Officers, two of them retired and service of one of the Supervisors was terminated before 2006, therefore, there were 40 Supervisors from Bal Sewikas working against 37 posts as prescribed. Hence, none from the cadre of Bal Sewika (which otherwise is stated to be a dying cadre) was promoted to the post of Supervisor from the year 1997 to 2007 due to non-availability of posts. The Committee headed by Mr. Satish Chandra, IAS was constituted to look into the selection of 401 Supervisors from the ranks of Anganwari workers. Argument raised on behalf of learned counsel for the appellant that in case promotion of Anganwari workers as Supervisors were more than its quota, the same benefit should have been accorded in respect to Bal Sewikas also, is completely devoid of any merit, hence rejected. It is apparent that no post of Supervisor in the quota in question was available. As per the 2001 Rules, it is necessary for Bal Sewikas/Gram

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Sewikas to have a working experience of 8 years. 49 new posts of Supervisors were created on 31.08.2006 and writ petitioner was afforded promotion vide order dated 03.10.2008. It is a conceded position that no junior to the appellant has been promoted prior to her. Furthermore, it is correctly held by learned Single Bench that the appellant cannot claim any parity with Malkiat Kaur and Sarabjit Kaur as they were direct appointees as Supervisor in the category of wards of Freedom Fighter and had joined their post pursuant to order dated 29.04.2010 in CWP-15543-2008.

7. Learned counsel for appellant was unable to point out any illegality, infirmity or irregularity in impugned orders dated 04.12.2020 and 25.04.2022 which call for interference.

8. No other argument has been addressed.

9. Appeal being devoid of any merit is, thus, dismissed.

(LISA GILL)
JUDGE

October 18, 2024
Rts

(SUKHVINDER KAUR)
JUDGE

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