

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-11411-2020(O&M)

Date of decision : 08.02.2024

Harender Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Dr.Suresh Kumar Redhu, Advocate for the petitioner.

Ms.Palika Monga, DAG, Haryana.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari to quash the letter dated 05.08.2019 (Annexure P-8), letter dated 03.03.2020 (Annexure P-12) as well as notice dated 13.07.2020 (Annexure P-13) conveyed to the petitioner on 16.07.2020 proposing to compulsorily retire him w.e.f. 14.10.2020 on expiry of three months period.

2. Learned State counsel has submitted that the operation of the pre-mature retirement notice dated 13.07.2020 was stayed vide order dated 14.10.2020 passed by the Coordinate Bench of this Court and during the pendency of the present petition, the petitioner has retired after attaining the age of 58 years and he has been paid salary also for the said period of service. It is further submitted that in view of the same, the substantial claim of the petitioner has been rendered infructuous.

3. Learned counsel for the petitioner has submitted that as per his instructions, the persons, junior to the petitioner, have been promoted to the rank of ASI Account Branch and the petitioner was not granted promotion

on account of the adverse remarks conveyed to the petitioner vide letter dated 05.08.2019 (Annexure P-8), letter dated 03.02.2020 (Annexure P-12) vide which representation filed by the petitioner against the said adverse remarks was rejected and also on account of the notice dated 13.07.2020 (Annexure P-13) for compulsorily retirement. It is further submitted that the petitioner would wish to contest his plea with respect to promotion from the date when his juniors were so promoted and till the time, the adverse remarks and the representation rejecting the said adverse remarks are not set aside, the petitioner's prayer for promotion would not be granted.

4. Learned State counsel, on the other hand, has submitted that in the present case, necessary pleadings seeking promotion has not been made as well the persons who were junior to the petitioner, are not made a party.

5. Keeping in view the abovesaid facts and circumstances, the present petition is disposed of with liberty to the petitioner to file a fresh writ petition making the prayer with respect to the grievances which are left including the prayer for promotion of the petitioner from the date his juniors were promoted. It would also be open to the petitioner to challenge the adverse remarks conveyed to the petitioner vide letter dated 05.08.2019 and the letter dated 03.03.2020 (Annexure P-12) vide which the representation filed by the petitioner against the said adverse remarks was rejected.

6. It is made clear that in case any such petition is filed, the same would be considered independently, in accordance with law.

February 08, 2024

Davinder Kumar

(VIKAS BAHL)

JUDGE

Whether speaking / reasoned

Whether reportable

Yes/No

Yes/No