

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-13489-2022 (O&M)
Decided on : 04.01.2024

Devender Kumar

. . .Petitioner

Versus

State of Haryana and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Jangjit Singh Dahiya, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance of the petitioner is that the petitioner is not being considered for promotion to the post of 'Class B-Tehsildar' despite the fact that there is nothing against the petitioner.

Learned counsel for the petitioner submits that merely on the basis of some vigilance enquiry, the claim of the petitioner for the promotion to the post of 'Class B-Tehsildar' is being with-held which is totally arbitrary and illegal as, department has the jurisdiction to with-hold the benefit of promotion of the petitioner only on the ground of pendency of the criminal proceedings against the petitioner and in case the petitioner has been charge-sheeted in a criminal proceedings.

Learned counsel for the petitioner further submits that in the absence of any charge-sheet being issued to the petitioner in any criminal case, merely on the basis of vigilance enquiry being conducted against the petitioner, cannot be made a ground for denying the benefit of promotion to the petitioner to the post of 'Class B-Tehsildar'.

Learned counsel for the respondents-State has filed a short reply by way of an affidavit of Ms. Shivjeet Bharti, HCS, Deputy Secretary to Government of Haryana, Revenue and Disaster Management Department, Chandigarh dated 02.01.2024 in the Court today and the same is take on record.

In the said short reply, the State has conceded that keeping in view the report which has been received from the State Vigilance Bureau, Panchkula, the State Vigilance Bureau has not found any involvement of the petitioner in the on going investigation but the investigation is still continuing.

From the perusal of the facts which have been stated herein before, it is a conceded position that as of now, there are no criminal proceedings which are pending against the petitioner as the petitioner has not been charge-sheeted in any criminal proceedings hence, keeping in view the judgment passed by Hon'ble Supreme Court of India in 'Union of India v. K. V. Janki Raman', it cannot be said that any criminal proceedings is pending against the petitioner so as to deny him the benefit of promotion or to give jurisdiction to respondents-State to withhold the promotion of the petitioner.

Further, even with regard to vigilance investigation, nothing has been found against the petitioner so far. That being the factual position, once, the Departmental Promotion Committee for promotion to the post of

‘Class B-Tehsildar’ has already been conducted and the claim of the petitioner was considered, the same cannot be withheld by the respondent merely on the ground that investigation is still on going. Unless and until, any material has come on record which shows any misconduct on the part of the petitioner during the vigilance investigation, mere pendency of investigation, cannot be treated as a ground to withhold the promotion of the petitioner to the post of ‘Class B-Tehsildar’.

Keeping in view the above, a direction is issued to the respondents-State to consider the claim of the petitioner with regard to the promotion of the petitioner to the post of ‘Class B-Tehsildar’ and pass appropriate order.

In case, the petitioner makes-up for promotion to the post of ‘Class B-Tehsildar’ according to the merit obtained, the benefit of promotion to the post of ‘Class B-Tehsildar’ be granted to the petitioner alongwith other similarly situated candidates who were found eligible for promotion to the post of ‘Class B-Tehsildar’, with all consequential benefits such as seniority as well as the pay-scale of ‘Class B-Tehsildar’.

Learned counsel for the respondents-State submits that as of now, no one has been appointed on the post of ‘Class B-Tehsildar’. That being the factual position qua promotion it is directed that as and when the promotion to the post of ‘Class B-Tehsildar’ will be made, the claim of the petitioner will be considered on merit without there being any objection qua the pendency of any vigilance report so as to withhold the promotion of the petitioner to the post of ‘Class B-Tehsildar’.

In case the petitioner is found eligible and meritorious enough for the post of ‘Class B-Tehsildar’, he will be promoted to the post of ‘Class B-Tehsildar’.

The present petition is disposed of in above terms.

The original record which have been kept as Annexure-A starting from page No. 130 to page No.143 alongwith the paper book of this Case is returned back to the State counsel which has been further handed over to Mr. Sunil Sangwan, Assistance, office of FCR & ACS, Revenue and Disaster Management Department, Chandigarh in the Court today itself for considering the claim of the eligible candidates for the promotion to the post of ‘Class B-Tehsildar’ in accordance with the recommendations of Departmental Promotion Committee and the photocopy of the said record be retained as Annexure-A with the present case for further purposes.

(HARSIMRAN SINGH SETHI)
JUDGE

04.01.2024

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Whether speaking/reasoned: Yes/~~No~~
Whether Reportable: Yes/~~No~~