



LPA No.1452 of 2024

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

LPA No.1452 of 2024(O&M)

Decided on :05.08.2024

Baljit Singh**.....Appellant****VERSUS****State of Punjab and Another.****.....Respondents****CORAM: HON'BLE MRS. JUSTICE LISA GILL****HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Madhav Pokhrel, Advocate
for the appellant.

Mr. R.S. Pandher, Sr. DAG, Punjab.

LISA GILL, J (ORAL)

1 Prayer in this appeal is for setting aside order dated 02.02.2024 passed by learned Single Judge whereby CWP No.20581 of 2020 filed by appellant/writ petitioner was partly allowed.

2 Appellant/Writ Petitioner filed the above said writ petition seeking directions to respondents to promote him from the post of Senior Assistant to Superintendent Grade-II from the date he completed three years of experience as Senior Assistant while counting the service rendered by him in armed forces from 14.12.1981 to 31.01.1998. It is the case of writ petitioner that there were other employees senior to him but they did not possess requisite experience while writ

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petitioner was entitled to benefit of 5 years experience for the services rendered with Armed forces, therefore, he should be considered for promotion to the post of Superintendent Grade II. His total experience i.e. of 5 years rendered with the armed forces and 3 years with the department it was claimed should have been considered and petitioner promoted to post of Superintendent Grade II despite others who otherwise were senior to him. Writ petitioner's claim was opposed by the State while stating that promotions are made solely on the basis of seniority and persons above the petitioner in seniority would have to be first considered for promotion. Furthermore, as and when petitioner would falls within the zone of consideration, his case would be considered and at the relevant time benefit of experience of 5 years of service rendered with Armed forces would be considered for treating him eligible for promotion. Learned Single Bench vide impugned order dated 02.02.2024 recorded a satisfaction that as on date writ petitioner did not fall within the zone of consideration and thus has no claim for promotion existed. However, in future as and when the exercise of promotion is conducted and petitioner falls within the zone of consideration, he would be entitled for consideration of his period of service rendered with the armed forces for counting the total requisite 8 years service.

3 Respondents vide impugned order dated 02.02.2024 were directed to conduct an exercise for promotion within a period of 4 months from the date of order as it had been pleaded that requisite steps for carrying out promotion were not being carried out by the respondents. It was further directed that in case petitioner falls within the zone of consideration for promotion, his case would be considered in view of observations in para Nos.6 and 7 of the impugned order.

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4 Appellant/writ petitioner thereafter filed an application bearing CM
No.4851 of 2024 seeking modification/clarification of order dated 02.02.2024 with
a prayer that directions be issued to respondents-Department to consider his claim
for promotion w.e.f. October 2018. The said application was dismissed by learned
Single Judge vide order dated 05.04.2024.

5 Learned counsel for appellant argues that modification in order has
been incorrectly denied as the petitioner was very well within the zone of
consideration since October 2018, therefore, directions as sought should have been
issued to respondents.

6 Learned counsel for State at this stage, points out that necessary
exercise in compliance of order dated 02.02.2024 has been carried out on
15.03.2024. The appellant did not fall in the zone of consideration. Appellant had
retired on 31.05.2022. It is not denied that this fact was never brought to the notice
of learned Single Bench at the time of passing of order on 02.02.2024 neither it
was mentioned in application seeking modification/clarification.

7 In our considered opinion, no ground for interference is made out.

8 Learned counsel for appellant is unable to point out any illegality,
infirmity or perversity in the impugned orders dated 02.02.2024 and 05.04.2024
which calls for interference.

9 There is a delay of 32 days in filing of this appeal. As the appeal has
been adjudicated upon merits, adjudication on the application for condonation of
delay is rendered academic. Application is disposed of accordingly.



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10 Present appeal is accordingly dismissed with liberty to appellant to challenge the proceedings dated 15.03.2024 if so advised, wherein he has been held ineligible for consideration.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

05.08.2024
jyoti3
Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No