



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-21120-2011

Date of Decision:-09.08.2024

Balvir Lal

.....Petitioner

Versus

United India Insurance Company Ltd. and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Gagan Pradeep S. Bal, Advocate
for the petitioner.

ALOK JAIN, J.

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India, seeking issuance of writ in the nature of certiorari for quashing the impugned Ranking/Select list prepared for selection to the post of Administrative Officer (Scale—I) under para 13.2 of the Promotion Policy for SCS Staff 2008.

2. Briefly, the facts of the petition are that the petitioner was employed with United India Insurance Company and the promotion exercise 2011 for the promotion to the cadre Administrative Officer (Scale-1) was initiated by the respondents for promotion to eight (8) positions reserved for candidates belonging to the Scheduled Caste (SC) category in



the Northern Promotion Zone, to which the petitioner belongs. In response to the said notification, the petitioner working as Senior Assistant and considering himself to be fully eligible and available, duly submitted his application and subsequently appeared for the competitive written examination conducted on 07.08.2011.

3. The respondents vide circular dated 20.09.2011, published the region-wise result list, wherein the petitioner's name was reflected at Serial No. 73. Subsequently, vide Notice dated 30.09.2011 (Annexure P-2), the respondents notified the panel of employees eligible for promotion to the cadre of Administrative Officer (Scale-I) under Paragraphs 13.1 and 13.2 of the Promotion Policy. The petitioner, falling under the SC category (Para 13.2), was assigned Serial No. 1 in the merit list, having secured an aggregate score of 55 marks, comprising 30 marks under "Seniority" and 25 marks under "Qualification".

4. Thereafter, vide another circular dated 30.09.2011 (Annexure P/3), the schedule for interviews was notified, specifying that for the Chandigarh Region, the interviews were to be conducted on 12th and 13th October 2011. Subsequently, on 25.10.2011, the respondents issued a Ranking List of selected candidates for promotion to the Administrative Officer (Scale-I) cadre under Paragraphs 13.1 and 13.2 of the Promotion Policy, corresponding to the advertised vacancies in the Northern Zone. Despite the fact that the petitioner secured the highest merit position (Merit No. 1) in the SC category panel (Annexure P-2), he was not selected for



promotion, whereas Respondent No. 3, who was ranked at Serial No. 28, was included in the final selection list at Serial No. 8. Furthermore, Shri Uma Parkash (Serial No. 1) and Shri Manohar Lal (Serial No. 3) were also selected under Para 13.1, i.e., the Departmental Channel, while the petitioner, despite fulfilling all eligibility conditions and securing a higher merit position, was unjustly excluded. Aggrieved by this arbitrary and unjust exclusion, the petitioner has approached this Hon'ble Court by way of the present writ petition, seeking appropriate relief.

5. The learned counsel for the petitioner while reiterating the facts as stated in the petition submits that the petitioner, having secured first rank in the Merit list in the Scheduled Caste (SC) category, was arbitrarily denied promotion, while lower-ranked candidates, were selected, violating Articles 14 and 16 of the Constitution of India. The counsel while placing reliance upon the Promotion Policy, further submits that the respondents failed to adhere to Para 13.1 and 13.2 of the Promotion Policy (2008) and no justification was provided, for the petitioner's exclusion, which left the promotion process completely arbitrary, non-transparent, and discriminatory. While concluding his arguments learned counsel submitted that the petitioner had a legitimate expectation of promotion, and the denial to the same, amounts to a violation of natural justice and fair play. The petitioner contends that if the selection records are reviewed, it will be evident that his non-selection for the post of Administrative Officer (Scale-I) is due to extraneous and unjust factors, rather than merit. The petitioner's



service record is impeccable, and there is no adverse report against him. Despite his commendable performance in the interview, the ranking list fails to reflect his qualifications adequately, which strongly suggests that favouritism has influenced the selection process. Therefore, the petitioner prays for quashing the final selection list and a direction to grant his rightful promotion based on merit may kindly be considered in the light of the relevant documents and policy on record.

6. Learned counsel for the petitioner has submitted that for promotion to the post of Administrative Officers, the seats had been filled up from Departmental cadre under Rule 13.1 and from the competitive cadre under Rule 13.2, however, he submits that as per Rule 13.3, both the lists have to be segregated and could not have been interlinked. He further submits that as per the Departmental Promotion Committee, petitioner was the senior most candidate eligible and available to be promoted as Administrative Officer and even in the competition, the petitioner stood first in the examination. However, it was only on account of interpolation in the marks of the interview, the petitioner was ousted. He further submits that even presuming that Jitender Kumar got 46 marks in the exam and was given 14 marks in the interview, the petitioner still would have been entitled because he got 55 marks in the exam and 06 marks in the interview, which makes the petitioner still ahead of Jitender Kumar.

7. He fairly submits that the petitioner has been promoted in the promotion process 2013 on 20.09.2013, though he was entitled to be



promoted from 2011 and since now the petitioner has already retired, he contains his prayer only to the said effect.

8. On the other hand, learned counsel for the respondents relied upon the affidavit dated 20.08.2015 filed by the Regional Manager, United India Insurance company Limited Chandigarh, submitted on behalf of the respondent, explaining the procedure followed by the respondent department during the promotion process of 2011 and submitted that the due procedure was followed by the respondent department. He reiterates that the petitioner secured total marks of 141.50 whereas cut of marks for SC categories employees was 149. He further submits that there were 66 more employees / candidates who had secured more marks. It is also submitted that if the candidate is selected in both the paragraphs i.e. 13.1 and 13.2 then he will be retained under 13.2 to enable the senior candidate to get selected under 13.1, so that a senior employee who is either a Senior Assistant or a Stenographer is promoted under Para 13.1. Even the petitioner, was later promoted in the promotion exercise of 2013 as per the order dated 18.09.2013, which was received by the petitioner on 20.09.2013. He summarises that the present petition has been rendered infructuous on two grounds. Firstly, the petitioner was lower in merit in the promotion process of 2011 and secondly, he has been duly promoted in the promotion process of 2013 and has since retired also.

9. Heard counsel for the parties at length and perused the record.

10. It is imperative to reproduce the order dated 03.10.2017,



passed by this Court, after going into the various aspects of the entire process, which reads as under:-

Pursuant to the order dated 19.9.2017, Sh. K.V. Narayana Rao, Regional Manager, United India Insurance Company Ltd., Hyderabad appeared and submitted that there were no written instructions or any provision while interviewing the candidates to award marks in the pencil and overwriting the same by pen. Perusal of the original record in respect of awarding of interview marks, it is crystal clear that there is a tampering.

Learned counsel for respondent No.2 submitted that he may be permitted to take instructions whether the petitioner could be promoted with retrospective effect and extended all monetary benefits for the reasons that petitioner has already attained age of superannuation and retired from service.

List this matter on 30.10.2017.

If the respondents promote the petitioner retrospectively and extend all monetary benefits, in that event, presence of Sh. K.V. Narayana Rao, Regional Manager is not required. In case the respondents refused to extent retrospective promotion and monetary benefits to the petitioner, in that event, Sh. K.V. Narayana Rao, Regional Manager is directed to appear on the fixed date for the purpose of passing further order in the matter.



11. Subsequent thereto vide order dated 30.11.2018, it was brought to the notice that the petitioner has since retired and a prayer was made by the respondent for disposing of the petition as having been rendered infructuous but the same was objected to by the petitioner and prayed that all consequential benefits be granted by holding him to be promoted in the year 2011.

12. It is crystal clear from record available that the petitioner despite having secured the highest merit in the SC category, was unjustly excluded from the promotion process, coupled with the fact that the respondents' failure to provide a clear, justifiable reason for this exclusion, alongside the selection of lower-ranked candidates, suggests a breach of the principles of fairness, equality, and transparency mandated by Articles 14 and 16 of the Constitution of India.

13. That the petitioner was promoted in 2013 and has since retired when weighed to his prayer that he was not given his due promotion in 2011 is to be considered. This Court cannot roll the clock back and the order dated 03.10.2017 having not been challenged by the respondents, clearly demonstrates that there was some discrepancy in the promotion process of 2011. However, considering the fact that the petitioner has since retired from the service, the ends of justice would be met if the present petition is disposed by issuing direction to the respondents to grant one increment to the petitioner and the consequential monetary benefits arising therefrom be released to the petitioner with simple interest @ 6% per



annum from the date they accrued. The needful be done expeditiously and without any demur, but not later than 06 months from the date certified copy is supplied by the petitioner to the respondent. However, it is made clear that in case the petitioner is constrained to initiate any contempt proceedings for the non-compliance of this order, as a necessary consequence the pay of the concerned official i.e. Deputy General Manager-cum-Promoting Authority/United India Insurance Company Limited will be stayed during the pendency of the contempt proceedings.

(ALOK JAIN)
JUDGE

09.08.2024
Gaurav Sorot

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