



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(204)

CWP No. 14038 of 2023 (O&M)
Date of Decision : 19.12.2024

Ashok Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amandeep Singh Manaise, Advocate for the petitioner.

Mr. Swapan Shorey, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. Learned counsel for the petitioner argues that while working as a Constable in the Indian Reserve Battallion, Kapurthala with the State of Punjab, the petitioner applied for the posts of Agriculture Sub Inspector, which were advertised in the year 2011.
2. The petitioner who was fully eligible, applied for the post through the Employer after getting 'No Objection Certificate' and his application was duly forwarded to the authorities concerned for consideration and ultimately, the petitioner got selected and he submitted a technical resignation with the Police Department, which was accepted so as to join the new post. The petitioner claimed the protection of his pay which he was drawing while working on the post of Constable and taking into



consideration his previous service in the new department of the Government of Punjab i.e. Agriculture and Horticulture Department.

3. Learned counsel for the petitioner submits that the plea of the petitioner for protection has been declined by the respondents by totally cryptic and non-speaking order (Annexure P-8) on the ground that the resignation was given by the petitioner in his parent department which was accepted, hence, no benefit be given.

4. Learned counsel for the petitioner argues that the resignation submitted by the petitioner was only a technical resignation so as to join the new post and the reply filed by the Police Department supports the claim of the petitioner that the petitioner competed for the post after taking 'No Objection Certificate' from the parent department, hence, the technical resignation will not wash away the service rendered by the petitioner with the Police Department so as to deny the grant of protection of pay upon appointment on the post of Agriculture Sub Inspector in the Department of Agriculture and Horticulture, Government of Punjab.

5. After notice of motion, the respondents have filed the reply, wherein, the respondents have stated that the application in pursuance to which the petitioner was selected as an Agriculture Sub Inspector, was received by the Punjab Agriculture University and the selection was done by the said Agency, hence, as nothing has been informed by the said agency whether the petitioner participated with the permission of his earlier Department, hence no benefit of earlier service can be given.



6. Learned counsel for the respondents submits that the benefit which the petitioner has already withdrawn from the Police Department, has never been deposited with the Agriculture Department so as to claim the relief of protection of pay and treating the earlier service as a qualifying service.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. Keeping in view the reply filed by the Police Department, it is a conceded fact that the petitioner participated for the post in question with the permission of his previous department i.e. the Police Department, Government of Punjab. That being so, merely that the Punjab Agriculture University, which is a recruiting agency, has not informed the subsequent department that the petitioner participated with the permission of the earlier department, will not be a ground to deny the benefit. Hence, once the claim of the petitioner is covered under the rules governing the service for protection of pay upon joining the new department, same cannot be denied.

9. Further, with regard to the claim of the respondents that the petitioner has not deposited the amount which he has received from his previous department, learned counsel for the petitioner has made a submission before this Court that the petitioner is ready to deposit the same along with statutory interest @ 12% per annum.

10. Keeping in view the said fact, the respondents are liable to be directed to re-consider the claim of the petitioner for the grant of benefit of



protection of pay as well as counting of the service rendered in the previous department for pensionary benefits.

11. The impugned order dated 27.01.2023 (Annexure P-8) is set-aside. The respondents are directed to grant a fresh consideration to the claim of the petitioner in light of the fact that the previous department is on record to say that petitioner participated in the selection process with their approval and the petitioner applied through the proper channel and only technical resignation was submitted, however the same will be subject to deposit of the amount along with interest by the petitioner.

12. Let the order be passed within a period of eight weeks of the receipt of copy of this order.

13. Petition is allowed in above terms.

14. Pending miscellaneous application, if any, also stands disposed of.

December 19, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No