

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-19198-2015 (O&M)
Date of Decision: 16.02.2024

Subhash Chander
..... Petitioner
Versus

Board of Directors, the Punjab State Cooperative Supply & Marketing
Federation Limited and others.
..... Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Amit Sharma (Kanav), Advocate
for the petitioner.

Mr. Aseem Rai, Advocate
for respondents No. 1 & 2.

Mr. Rajesh Sehgal, Addl. A.G., Punjab.

NAMIT KUMAR, J.(ORAL)

1. Challenge in the present petition is to the order dated 23.06.2015 (Annexure P-4), whereby respondents No. 4 to 6 have been promoted to the post of Assistant Accounts Officer. Further a writ of mandamus has been sought for directing respondent No.2, to consider and promote the petitioner from the said date when persons junior to him were promoted, alongwith consequential benefits with interest.
2. The brief facts as have been pleaded in the present petition are that the petitioner was inducted into the service of the Punjab State Cooperative Supply and Marketing Federation Limited (for short 'MARKFED') on 24.04.1987 as Assistant Accountant and in the tentative

seniority list issued on 18.12.2014, the name of the petitioner figured at Sr. No. 4. Further promotion from the post of Accountant is to the post of Assistant Accounts Officer in terms of the Punjab State Cooperative Supply and Marketing Federation Employees (Common Cadre) Service Rules, 1990. It is the case of the petitioner that he was fully eligible for promotion to the post of Assistant Accounts Officer as per the said Rules, however, vide order dated 23.06.2015, respondents No. 4 to 6, who were junior to the petitioner, have been ordered to be promoted and the candidature of the petitioner was rejected on the ground that he does not fulfill the condition of minimum bench mark. It is further the case of the petitioner that although the post in question is a Group 'C' post, however, the bench mark meant for Group 'A' has been applied, while considering the case of the petitioner for promotion.

3. In the written statement filed on behalf of respondents No. 1 & 2 i.e. MARKFED, it has been stated as under :-

“12. That the contents of this para are wrong and hence denied. As per Punjab Civil Services (Revised Pay) Rules, 2009, whereby pay scales, were revised by Government of Punjab along with pay revision Groups/Classifications were also changed. As per general conversion table, the pay scale of Rs. 10300- 34800+5000/-G.P. which is also the pay scale of the post of AAO is placed in Group 'A'. These revised pay scales were adopted in Markfed vide letter dated 2.3.2010 and with the adoption of these revised pay scales, the post of AAO in the pay scale of Rs. 10300-34800+5000/-G.P. now falls in Group 'A'. While implementing revised pay scales in Markfed vide letter dated 02.03.2010, it has been provided against Sr. No.1 that "the implementation of the revised pay scales of Markfed employees shall be undertaken by Markfed in

accordance with the recommendations of the Punjab Fifth Pay Commission as admissible to Punjab Govt. Employees". However, for making amendment in Common Cadre Rules, agenda note was prepared and was placed before the respondent no.1 in its meeting held on 23.7.2015. The said agenda note has been approved by Board of Directors, Markfed and was sent to RCS Punjab for approval vide letter dated 2.9.2015 which is still awaited."

4. During the course of arguments, it has been admitted by counsel for the parties that the petitioner has already been promoted to the post of Assistant Accounts Officer on 19.08.2016. Learned counsel for the petitioner submits that the bench mark meant for Group 'A' post cannot be applied in the case of the petitioner unless the said post is incorporated in the service regulations as Group 'A' post and admittedly the approval in this regard was accorded by the Registrar, Cooperative Societies, Punjab on 26.04.2017 and whereas the case of the petitioner was considered on 23.06.2015. He further submits that the said amendment cannot be made applicable retrospectively and, therefore, the case of the petitioner is liable to be reconsidered.

5. Learned counsel for the respondents could not dispute the above said factual position and could justify the action of the respondent-MARKFED.

6. Admittedly, on the date of consideration, the post in question was Group 'C' post and for making amendment in the Common Cadre Rules, agenda note was prepared and placed before respondent No.1 in its meeting held on 23.07.2015 and the said agenda note was approved by the Board of Directors, MARKFED and was sent to RCS, Punjab vide letter dated 02.09.2015, and finally the said approval was accorded by the RCS, Punjab

on 26.04.2017. Therefore, the bench mark meant for Group 'A' post could not have been applied on 23.06.2015.

7. In this view of the matter, the present petition is partly allowed. The respondents are directed to reconsider the claim of the petitioner for promotion to the post of Assistant Accounts Officer w.e.f. 23.06.2015 when respondents No. 4 to 6 were promoted in view of the observations made above, within a period of three months from the date of receipt of certified copy of this order and consequential benefits be released to him within a period of one month thereafter.

8. Disposed of accordingly.

9. All pending application(s), if any, shall also stand disposed of.

(NAMIT KUMAR)
JUDGE

16.02.2024
Satyawar

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No