



CWP-19397-2017

1

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

(219)

CWP-19397-2017

Date of Decision : September 05, 2024

Bharpur Singh

.. Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurbachan Singh, Advocate, for the petitioner.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

Mr. Jatinderpal Singh, Advocate, for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the prayer of the petitioner is that the petitioner is entitled for promotion to the post of Kanungo w.e.f. the date employees junior to him have been promoted with all consequential benefits.

2. As per the averments made in the petition, the petitioner was appointed as Patwari on 01.06.1989. The next promotion was to the post of Kanungo, which was to be done as per the Punjab Kanungos (Class-III) Services Rules, 1994.

3. Learned counsel for the petitioner submits that the petitioner was fully eligible for promotion to the post of Kanungo in the year 2013 but keeping in view the fact that he was facing disciplinary proceedings, he was

**CWP-19397-2017****2**

not promoted and his juniors were promoted and now, as his disciplinary proceedings have resulted into exoneration, the petitioner is entitled for the benefit of promotion to the post of Kanungo w.e.f. the date employees junior to him have been promoted, with all consequential benefits.

4. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that though the petitioner was superseded and his juniors were promoted in the year 2013 but the same was not only on account of the disciplinary proceedings pending against the petitioner rather the petitioner was also not eligible for promotion keeping in view 1994 Rules hence, the petitioner could not be promoted to the post of Kanungo.

5. Learned counsel for the respondents submits that the qualification of the refresher course, which is compulsory for a Patwari so as to be eligible for promotion to the post of Kanungo, was not possessed by the petitioner at the time when the juniors of the petitioner were promoted in the year 2013 hence, the petitioner has been promoted subsequently from 09.12.2016 after he had passed the refresher course.

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

7. The question which arise in the present petition is whether, on the date when the employees junior to the petitioner were promoted in the year 2013, the petitioner was eligible for promotion to the post of Kanungo keeping in view 1994 Rules or not.

8. For a better understanding, Rule 8 of 1994 Rules as it existed in the year 2013 is as under:-



“ 8. Method of appointment and qualifications: - (1) All appointments to a cadre of the service shall be made District wise and in the following manner, namely:-

(I) in the case of District Kanungos, hundred percent by promotion from amongst the Assistant District Kanungos, Field Kanungos, Special Kanungos, Thur, Office Kanungos and Settlement Kanungos working in the same cadre, who have an experience of working as such for a minimum period of two years and who have qualified the examination specified in the regulations.

(ii) in the case of Kanungos,-

(a) fifteen percent by direct appointment;

(b) eighty-five percent by promotion from amongst the Patwaris who have an experience of working as such for a minimum period of ten years in the district to which the posts relate; and have undergone refresher course as specified in Appendix ‘B’ to these rules;

(c) by absorption of the retrenched or likely to be retrenched officials of equivalent rank working in the Directorate of Consolidation of Holdings, Punjab’

Provided that the retrenched or likely to be retrenched officials shall be adjusted by absorption against the promotion quota,

Provided further that the appointment by promotion shall, at no given time, be less than seventy-five percent.

(2) No person shall be recruited to the Service by direct appointment unless-

(i) he has passed the 10+2 or its equivalent examination from a recognized university, board or other institution; and

(ii) possesses knowledge of Punjabi language of Matriculation standard or its equivalent;

Provided that if a person appointed on compassionate grounds or priority basis does not possess knowledge of Punjabi language of Matriculation standard or its equivalent,



CWP-19397-2017

4

he shall have to acquire the same or he shall have to qualify a test conducted by the language wing of the Department or Education of the Punjab Government, within a period of six months of the date of his appointment:

(3) All appointments to the service by promotion shall be made on the basis of seniority-cum merit and no person shall have any right for promotion on the basis of seniority alone.”

9. A bare perusal of the above Rule would show that the Patwaris can only seek promotions in case he/she has 10 years experience and has also undergone the refresher course as specified in Appendix B of the Rules. It is a conceded fact that when the juniors of the petitioner were promoted in the year 2013, the petitioner did not had the refresher course to his credit.

10. Keeping in view the above, once the petitioner was not eligible for promotion under 1994 Rules, the grant of benefit of promotion w.e.f. the date employees junior to him were promoted, is not made out. Only a candidate, who is eligible, can seek retrospective promotion in case he/she stands exonerated in the departmental proceedings, which was the basis for the non-grant of promotion. In the present case, ineligibility of the petitioner to be promoted in the year 2013 was also a factor which weighed with the respondents in not promoting the petitioner apart from pending disciplinary proceedings.

11. In view of the above, no ground is made out for the grant of relief as being claimed in the present writ petition.

12. The present writ petition is accordingly dismissed.

September 05, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No