



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

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CWP-18841-2018

Date of decision : 15.10.2024

Ravinder Kumar

.....Petitioner

V/S

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Rahul Bhargava, Advocate for the petitioner.

Mr. Surya Kumar, A.A.G., Punjab.

Ms. Anju Arora, Advocate for respondents No.2 to 4.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of mandamus, directing the respondents to promote the petitioner as Field Assistant and to give all consequential benefits to him along with interest @ 18% per annum.

2. The petitioner, who was appointed as Chowkidar on 07.03.2002 in the office of respondent No.4-Punjab State Forest Development Corporation Limited, Bathinda, by way of present petition seeking implementation of the order dated 30.11.2006, whereby the petitioner along with 4 others were appointed as Field Assistant, however, he was not allowed to join on the said post.

3. Pursuant to notice of motion, written statement on behalf of



respondents No.2 to 4 has been filed wherein it has been stated that there is no channel of promotion from the post of Chowkidar to that of Field Assistant as both of the posts relate to distinct cadre. The post of Timber Watcher and Clerk are the only feeder cadre posts for promotion to the post of Field Assistant and as per rules, only Timber Watcher and Clerk can be promoted as Field Assistant. The post of Timber Watcher and Field Assistant is a post of field cadre and Timber Watcher can be promoted as Field Assistant, whereas the post of Chowkidar is of general staff and the promotion channels for both of the post are different. Along with written statement the ‘Punjab State Forest Development Corporation Employees Service-Bye Laws’ have been attached. The relevant portion from the same is as under :-

Sr. No.	Post	Scale	Qualification	Recruitment %age	Departmental Promotion % age	Remarks
xxxxxxxxxx						
B. General Staff :						
xxxxxxxxxx						
2.	Clerk	950-1800	Matriculate 1 st Division or graduate. Typewriting speed 30 wpm & 40 wpm in Punjabi and English respectively	90	10	i) Subject to minimum Matriculate with 5 years service in the lower cadre. Candidate shall have to qualify typing test. 10% posts shall be filled through peons/chowkidars who fulfill the prescribed qualifications & experience as per the State Govt. ii) The cadre will be bifurcated amongst Clerks, Sr.Clerks, Junior Assistants in the ratio of 20:40:40



						as per the State Govt. policy. (Scale 950-1800, 1200-2100 & 1500-2140 respectively).
XXXXXXXXXX C. Field Staff : XXXXXXXXXX						
2.	Field Assistant	950-1800	Matriculate 2 nd division or higher qualification i.e. Senior Secondary B.A. with Punjabi. Should possess minimum height 170 cm chest 81-86 cm and qualify 12.5 k.m. walk in 1½ hours.	75	25	Subject to minimum 5 years service on the lower cadre. Feeder grade : Timber Watcher/ Clerk.

4. From the perusal of the reproduction made above, it is clear that the Chowkidars who are Matriculate, having 05 years of service and have qualified the typing test are eligible to be considered for promotion to the post of Clerk against 10% post. The petitioner could not be promoted to the post of Timber Watcher as he did not complete five years of service on 29.05.2006. The case of the petitioner was not considered at that time along with other Timber Watchers for promotion to the post of Field Assistant as the petitioner was working as Chowkidar not Timber Watcher and as per the rules, only Timber Watcher can be promoted as Field Assistant.

5. Learned counsel for the petitioner has referred to Annexure P-8, whereby one Sh. Jeet Singh was made Timber Watcher. The petitioner cannot have any grievance with regard to the same as this is not the claim of the petitioner in the present writ petition.



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6. Since there is no channel of promotion from the post of Chowkidar to the post of Field Assistant in the relevant Bye Laws, the claim raised in the present writ petition is totally misconceived and cannot be accepted.

7. The Hon'ble Supreme Court in *Ajit Singh Vs. State of Punjab : 1999(4) SCT 1*; *Union of India and others Vs. Sangram Keshari Nayak : 2007(3) SCT 512* and *Union of India and another Vs. Hemraj Singh Chauhan and others : 2010(2) SCT 421* has held that the promotion is not a fundamental right, however, consideration for promotion is a fundamental right. The promotion can only be considered in terms of the rules governing the service of the employee.

8. The Hon'ble Supreme Court in *P.U. Joshi and others Vs. Accountant General, Ahmedabad and others : 2003(1) SCT 435* has held that questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Courts to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State and similarly, it is well open and within the competence of the State to change the rules relating to a service and alter or amend and vary by additions/substruction the qualifications,



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eligibility criteria and other conditions of service, including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate and the Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service. To the same effect is a Division Bench judgment of this Court in ***Ramesh Kumar and others Vs. Azad Singh Clerk and others : 2015(4) SCT 218.***

9. The Hon'ble Supreme Court in ***Union of India and others Vs. S.K. Saigal and others : 2007(1) SCT 286*** has held that no *mandamus* can be sought against the provisions of the rules. To the same effect is the judgment of the Hon'ble Supreme Court in ***State of Haryana and others v. Sumitra Devi and others : 2004(1) SCT 309.***

10. So far as the claim of the petitioner that he was appointed as Field Assistant along with 04 others vide order dated 30.11.2006 and he had not been allowed to join on the said post is concerned, with regard to the same the following stand has been taken by the respondents in the written statement :-

“xx xx xx xx xx

4. That vide office order No.74 dated 02.11.2006, it was specifically mentioned that the DPC will ensure all the rules and regulations/byelaws as applicable to Punjab State Forest Development Corporation. In this regard, the members of the DPC have disagreed with the chairman of DPC and the Managing Director, Punjab State Forest Development Corporation, who is the authority competent to accept and approve the proceeding of the DPC, has held the order dated 30.11.2006 passed by the Chairman, DPC



Cum General Manager (T) are totally against the rules and Managing Director has declared that this order has been passed without the consent of the members of the DPC. Hence, the same deserve to be rejected. Managing Director, Punjab State Forest Development Corporation has further expressed the need to re-convene the meeting of the DPC, so that the issue pertaining to the promotions be addressed as per the rules. The Managing Director, Punjab State Forest Development Corporation has recorded his disapproval in his letter No.PSFDC/5164-72 dated 01.12.2006 written to the Chairman PSFDC. xx xx xx”

11. Since the said order dated 30.11.2006 has already been declared to have been passed without the consent of the members of the DPC and has been rejected, therefore, the petitioner cannot stake any claim on the basis of the said order.
12. In view of the above, there is no merit in the claim raised by the petitioner in the present petition and the same is hereby dismissed, with no orders as to costs.

15.10.2024

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(NAMIT KUMAR)
JUDGE

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