

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

(213)

CWP-23133-2018

Date of Decision : February 01, 2024

Birender Singh**.. Petitioner****Versus****State of Haryana and another****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. R.K. Malik, Sr. Advocate, with
Mr. Kartikey Chaudhary, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the petitioner is claiming promotion to the post of Chief Inspector and further promotion to the post of Station Supervisor w.e.f the date, employee junior to the petitioner in the cadre of Inspector was given the said promotion.

2. Learned senior counsel for the petitioner argues that the petitioner was appointed as a Booking Clerk in the year 1984. The employees who were junior to the petitioner in the said cadre, were promoted to the post of Inspector on 14.12.1988 but the petitioner was not given the said promotion and that too without any valid justification.

3. Learned senior counsel for the petitioner submits that action of non-promotion as Inspector was challenged by the petitioner by filing CWP No.2572 of 2012 which was disposed of on 13.02.2012 and a direction was

given to decide his claim for promotion to the post of Inspector in a time bound manner.

4. Keeping in view the said direction, the respondents passed an order on 29.05.2017, a copy of which has been annexed as Annexure P-9 that the petitioner was not given promotion to the post of Inspector when his juniors were promoted without any valid justification and he was held entitled for promotion to the post of Inspector on 14.12.1988 and was extended retrospective promotion in the cadre of Inspector w.e.f. 14.12.1998.

5. After the petitioner was granted retrospective promotion to the post of Inspector, the petitioner claimed further promotion to the post of Chief Inspector as well as Station Supervisor as by the said date, the employees who were promoted to the post of Inspector after 14.12.1988, had already been given the promotion as Chief Inspector and further promotion as Station Supervisor.

6. As the respondents are not granting the consequential benefits of retrospective promotion to the petitioner in the cadre of Inspector from 14.12.1988, the present writ petition has been filed by the petitioner claiming the said benefit.

7. After notice of motion, the respondents have filed the reply. In the reply, the respondents have conceded the fact that the petitioner has been given promotion to the post of Inspector from 14.12.1988. The respondents have conceded a factum in paragraph 4 and 5 of the reply that the candidates who were appointed to the post of Inspector in the year 1994, have already been promoted to the post of Station Supervisor.

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

9. The facts which have been noticed hereinbefore show that the petitioner was wrongly denied the promotion to the post of Inspector when the same was given to the other similarly situated employees in December 1988. The petitioner was kept away from a promoted post for a period of 28 years when the same was given to him retrospectively vide order dated 29.05.2017. Once the said benefit has been given, the petitioner becomes entitled for the consequential benefits of further promotion in case, any Inspector, who was appointed after 14.12.1988, has been given further promotion.

10. The respondents in their written statement have conceded the factum that the Inspectors who were promoted in the year 1990, has already been promoted upto the rank of Station Supervisor. That being the conceded position, the petitioner also becomes entitled for further promotion to the post of Chief Inspector as well as Station Supervisor in case he is found fit for the said post.

11. Nothing has been shown by the respondents as to why, the said benefit has not been extended to the petitioner after granting him retrospective promotion to the post of Inspector w.e.f. 14.12.1988. In the absence of any valid justification, coupled with the fact that it is a conceded position that the Inspectors who were promoted after 14.12.1988 have been further promoted as Chief Inspector and Station Supervisor, it was incumbent upon the respondents to grant the consideration to the petitioner for promotion to the said post of Chief Inspector and Station Supervisor.

12. The present writ petition is allowed. The respondents are directed to consider the claim of the petitioner for promotion to the post of Chief Inspector and thereafter Station Supervisor keeping in view the date when the Inspectors who were appointed after 14.12.1988 were promoted to

the said post. In case, the petitioner is found eligible in all respect for promotion, the benefit of promotion be granted from the date the junior was promoted.

13. As the present writ petition was filed in the year 2018, the petitioner will also be entitled for arrears for three years and two months prior to the filing of the present writ petition.

14. In case the petitioner is found entitled for promotion, as the petitioner has already retired, his pensionary benefits be also revised accordingly and the difference be given keeping in view the arrears admissible for a period of three years and two months prior to the filing of the present petition.

February 01, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No