

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.23221 of 2018 (O&M)
Date of decision:10.01.2024

Mohal Lal and others
.....Petitioners
Versus
State of Punjab and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. P.C. Yadav, Advocate
for the petitioner.

Mr. T.P.S. Walia, AAG, Punjab.

Mr. Anupam Singla, Advocate
for respondents No.2 to 5.

NAMIT KUMAR J.

1. The petitioners have approached this Court by way of filing the instant writ petition under Articles 226 and 227 of the Constitution of India, seeking issuance of a writ in the nature of certiorari for setting-aside the order dated 21.03.2018 (Annexure P-8) whereby the claim of the petitioners for promotion in ‘Group C’ cadre has been rejected.
2. The brief facts leading to filing of this petition as has been pleaded in the present writ petition are that the petitioners are visually disabled persons and are blind. They were appointed as Announcers between the year 1997 to 2018. It is the grievance of the petitioners that although they are working since 1997, however, they have not been given any promotion to the higher post and for claiming promotions, they served a legal notice dated 05.09.2017 upon the respondents and

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since no action was taken on the said legal notice, they approached this Court by filing a petition i.e. CWP No.28973 of 2017, which was disposed of by this Court vide order dated 19.12.2017, with a direction to the respondents to consider and decide the legal notice of the petitioners within a period of 02 months and in case, the petitioners are found entitled to the relief sought in the legal notice, the same shall also be granted to them within a period of 02 months thereafter. In compliance of the said order, a speaking order dated 21.03.2018, has been issued by the respondent/PRTC wherein it has been stated that the petitioners were inducted as Announcers against the newly created ex-cadre posts on 17.04.1997 and 18.06.1997, respectively under Handicapped Category (Blind) as Special Drive was conducted by the Government of Punjab and their cases have been referred to the Punjab Government for inclusion of these posts under Group D cadre and since no approval has been received from the Government of Punjab for inclusion of these ex-cadre posts in Group D, therefore, their claim for promotion to Group C cadre cannot be considered. The said order has been impugned in the present writ petition.

3. On issuance of notice of motion to the respondents, written statement has been filed by respondents No.2 to 5/P.R.T.C. and short reply on behalf of respondent No.1 has been filed, contesting the claim of the petitioners. Thereafter, an additional affidavit dated 29.09.2023, has been filed by the Managing Director of the PEPSU Road Transport Corporation, wherein it has been stated as under:-

“3. That as mentioned in the reply, the petitioners

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were appointed as 'Announcers' against newly created ex-cadre post on 17/04/1997 and 18/06/1997 respectively under handicapped category (blind) as per special drive conducted by the Government of Punjab. It is further submitted that no such post of 'Announcers' was in existence in the respondent Corporation and the same is still not in existence in the service regulations of the respondent corporation. Therefore, till today, the said post is an isolated and ex-cadre post. Since the said post is not in existence in the respondent Corporation, therefore, there is no promotion channel available for promoting the petitioner from the post of 'Announcer' to any other promotional post. Accordingly, vide letter dated 27.03.2017 (Annexure R-1), the respondent Corporation has sought approval from the Department of Transport, Government of Punjab, which is the administrative authority of the respondent corporation, for inclusion of the post of 'Announcer' under Group-D post, so that, promotion channel can be generated for the petitioners and they can be promoted to Group-C post.

4. That in the response to the aforesaid letter, the Department of Transport, Government of Punjab, vide letter dated 18.05.2017 advised the respondent corporation to take up the matter with the Labour Commissioner for getting amendment in its service regulations. In terms of the said letter, the respondent corporation approached the Labour Commissioner, Punjab vide letter dated 02.06.2017 and 23.06.2017 to seek approval for merging the post of 'Announcers' in Class-4 cadre so that they can be promoted in Class-3 cadre i.e. the post of Clerk on the basis of seniority-cum-merit.

5. That in response to the said letters, the office of Labour Commissioner, Punjab, vide letter dated

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07.07.2017, wrote to the respondent corporation that in case the respondent corporation had got there standing orders approved from the office of Labour Commissioner as required under Industrial Employment (Standing Order) Act, 1948 only then the office of Labour Commissioner can be approached.

6. That thereafter number of letters were exchanged between the respondent corporation and the office of Labour Commissioner as well as the Transport Department, Government of Punjab regarding permission to merge the post of 'Announcers' to the cadre of Class-4.

7. That after exchange of so many letters, it was transpired that since the respondent corporation is an independent and autonomous body, therefore the Board of Directors of the respondent corporation would be the competent authority to merge the post of 'Announcers' in Class-4 cadre and incorporate the same in its service regulations and thereafter the same would be required to be certified/approved from the office of Assistant Labour Commissioner/Labour Commissioner, Govt. of Punjab. Accordingly, now the respondent corporation will place the said issue before its Board of Directors for approval and after getting the approval from the Board of Directors of the respondent corporation, the same will be sent to the office of Assistant Labour Commissioner/Labour Commissioner, Government of Punjab for its certification/approval and thereafter, the petitioners will be considered for promotion to Class-3 post on the basis of their seniority-cum-merit. Hence it is prayed that the writ petition may kindly be disposed of accordingly.”

4. Learned counsel for the petitioner submits that the petitioners are continuing on the same posts of Announcers on which

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they were appointed in the year 1997 onwards and they have not been granted any promotion, which is totally illegal and arbitrary and is against the law laid down by the Hon'ble Supreme Court in "***Dr. O.Z. Hussain vs Union of India and others***", AIR 1990 (SC) 311, wherein it has been held that the employees are entitled for promotional avenues in their service careers.

5. On the other hand, learned counsel for respondents No.2 to 5/P.R.T.C. submits that the petitioners were appointed against ex-cadre posts and the matter is under consideration for incorporating the said ex-cadre posts in Group D category and has referred to the averments made in the additional affidavit of the Managing Director dated 29.09.2023, which has been reproduced hereinabove.

6. After hearing the learned counsel for the parties, I am of the considered view that since the petitioners were appointed against the ex-cadre posts of Announcers and the said post is yet to be incorporated in the Service Regulations of the Corporation in Group D category, as stated in the additional affidavit dated 29.09.2023, therefore, no positive directions for their promotion to Group C posts can be given, at this stage as the matter is already under consideration with them.

7. In view of the above, the present writ petition is disposed of with a direction to the respondents, to finalize the process of incorporating the posts of the petitioners in the Service Regulations of the Corporation and thereafter consider the cases of the petitioners for promotion to Group C cadre within a period of 06 months from the date of receipt of certified copy of this order as the matter is already pending

from 2017 onwards for its finalization.

8. Disposed of in the aforesaid terms.

(NAMIT KUMAR)
JUDGE

10.01.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No