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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-2370-CWP-2024 In/and
CWP-7796-2015
Date of Decision: 14.02.2024

NARESH KUMAR

...Petitioner

Vs.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunil Kumar Nehra, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Neeraj Januha, Advocate
for the applicant/respondent No.3.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-2370-CWP-2024

The present application has been filed under Section 151 CPC
for placing on record additional reply of respondent No.3.

CM is allowed as prayed for.

CWP-7796-2015

1. In the present petition, the grievance of the present petitioner is that the petitioner is entitled for promotion to the post of Deputy Superintendent w.e.f. 20.08.2002 (Annexure P-2) and thereafter to the post of Superintendent w.e.f. 21.08.2007 (Annexure P-5) and the impugned orders rejecting the said claim may kindly be set aside.
2. It has already come on record that during the pendency of the present petition, the petitioner has already been granted the promotion to the

post of Superintendent w.e.f. the date he is claiming the said benefits which have already been extended to him.

3. Learned counsel for the petitioner submits that once the petitioner stands entitled to the post of Superintendent from the due date, the promotion to the feeder cadre, from the due date could not have been denied by the respondent and hence, the petitioner is also entitled for promotion to the post of Deputy Superintendent from the due date along with the benefits accruing *qua* the said promotion from 20.08.2002 (a copy of order has been appended as Annexure P-2).

4. Learned counsel for the respondent submits that as the petitioner was undergoing the punishment, his promotion to the post of Deputy Superintendent could not be granted from the date the petitioner is claiming hence, once the petitioner has already been granted promotion to the post of Superintendent from the due date, as being claimed, no further grievance can be raised by the petitioner. Learned State counsel submits that as the petitioner was not found eligible at the relevant time for the promotion to the post of Deputy Superintendent, the promotion to the post of Superintendent has already been granted to the petitioner was valid and once respondent No.3 is already working on the post of Superintendent and has already retired on 30.06.2021, and, therefore, the promotion granted to the private respondent needs to be protected.

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

6. Once it has already come on record that the petitioner has been granted the benefit of promotion to the post of Superintendent from the date

i.e. 20.08.2002 (Annexure P-2) and all the benefits claimed by the petitioner have already been extended to him, there is no reason why promotion to the post of Deputy Superintendent, which is feeder cadre should be allowed in favour of the petitioner from the due date as being claimed in the present petition. In case, the argument of the petitioner is accepted that the petitioner was under the currency of the punishment and he could not have been granted the benefit of promotion to the post of Deputy Superintendent from 20.08.2002, then nothing has come on record as to how the petitioner, has been granted promotion to the post of Superintendent from the due date. Once, the promotion to the post of Superintendent has been granted to the petitioner from due date, it is incumbent upon the respondent to grant the petitioner the promotion to the post of Deputy Superintendent from the due date that the order passed by the respondent granting the petitioner promotion as a Superintendent does not suffer from any infirmity.

7. Keeping in view the above, respondents are directed to consider the petitioner for promotion to the said post from due date and pass an appropriate order keeping in view the order already passed by the respondent granting the petitioner the benefit of further promotion to the post of Superintendent from 21.08.2002.

8. Learned counsel for the respondent submits that once the petitioner has already been provided the benefit of promotion from the due date, his claim for promotion to the post of Deputy Superintendent has been rendered infructuous.

9. Once the petitioner has been found entitled for, there is no reason as to why the petitioner should not be given promotion to the post of

Deputy Superintendent from the due date. Respondents are directed to consider the claim of the petitioner for promotion to the post of Deputy Superintendent from the date he claimed and pass appropriate orders within a period of 03 months from the date of receipt of certified copy of the order. In case the petitioner is found entitled for the consequential benefit of salary as well for the said post, no interest shall be given as the same has been given up by the learned counsel for the petitioner at the time of argument.

10. *Qua* respondent No.3, once he had already worked on the post of Deputy Superintendent and has already retired, in case the petitioner is entitled for promotion to the post of Deputy Superintendent, the same be given against a supernumerary post without disturbing respondent No.3.

(HARSIMRAN SINGH SETHI)
(JUDGE)

14.02.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No