



212
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-26843-2018 O&M)
Date of Decision: 07.11.2024

Puran Chand

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashok Kaushik, Advocate, for the petitioner.

Mr. Gaurav Jindal, Additional Advocate General, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of letter/order dated 14.09.2018 (Annexure P-6), whereby the promotion of the petitioner as Superintendent has been declined only due to non-fulfilling of the ACRs, with a further prayer to direct the respondents to promote the petitioner on the post of Deputy Superintendent and Superintendent from the date his juniors have been promoted i.e. 04.07.2014 and 14.03.2017 respectively with consequential benefits.

2. While giving the brief facts of the case, learned counsel for the petitioner submitted that the petitioner was appointed to the post of Clerk on 25.11.1981 and thereafter promoted to the post of SDC on 23.09.1990. He was



thereafter promoted to the post of Assistant on 16.02.2006. He submitted that thereafter the petitioner was due for being promoted to the post of Deputy Superintendent but he was not promoted to the aforesaid post because of the reason that he had not achieved the benchmark of 70% of good ACR. He submitted that by virtue of Annexure R-1 which is dated 09.05.1985, it was so decided that only such officials/officers who have obtained at least 70% or more report of 'Good' or better categories during the last 10 years should be considered eligible for promotion to a higher post. In this regard, he submitted that when he was considered for being promoted in the year 2014, then out of last 10 years which starts from the year 2003 his total ACRs available on record were only 62%, although all of them were 'Good' or 'Very Good' but the ACRs fell short of 70%. He submitted that it was not the fault of the petitioner that the ACRs were not available on the record of the respondents and it was for the respondents to have completed the ACRs on their own and in this way, although he was eligible and suitable for being promoted, he was not promoted and thereafter for 2/3 times again he was considered but his percentage of ACRs for the last 10 years fell short. He submitted that ultimately with the passage of time since the last 10 years ACRs were to be seen his total percentage of ACRs Good/better ACRs exceeded 70% and ultimately he got promoted on 19.09.2016 vide Annexure P-4 and this promotion was granted to him with retrospective date i.e. the date on which his juniors have been promoted. He submitted that although the petitioner has been promoted after about 2 years and by giving a retrospective date of promotion but the grievance of the petitioner is that he ought to have been promoted on the previous date when he was considered for the first time in the year 2014 because the consequence of



the same was that when he was to be further promoted to the post of Superintendent, then two years experience on the post of Deputy Superintendent was required, which he did not have because physically he has not discharged the duties but in fact once he was given the retrospective date of promotion, then he ought to have been considered to have experience of the post of Deputy Superintendent. He submitted that so far as this aspect is concerned, although the petitioner has been promoted but he was entitled for further promotion to the post of Superintendent after considering his date of promotion to the post of Deputy Superintendent in the year 2014 and not in the year 2016 and therefore, necessary directions may be issued in this regard.

3. Learned counsel submitted that now the petitioner has already retired on 31.12.2018.

4. On the other hand, learned counsel appearing on behalf of respondent No.2 while referring to the reply filed by respondent No.2 submitted that when the petitioner was considered in the year 2014 alongwith other juniors he was not promoted and his post was kept vacant to await the ACRs because of the reason that as per Annexure R-1, 70% good ACRs were required which were not available at that point of time because of the reason that the petitioner did not submit the Self Appraisal Report to the concerned authorities and due to the non-submission of the Self Appraisal Report, the ACRs could not be recorded and since the ACRs could not be recorded for about 4 years his total percentage of ACRs fell short of 70%, which continued for another 2 years and when it reached 70% because of the passage of time and the last 10 years ACRs were to be counted, he was ultimately promoted because his good



ACRs exceeded 70% and he was promoted on 19.09.2016 by giving a retrospective date of promotion from the date when his juniors were promoted in the year 2014 and so far as the petitioner is concerned, at that point of time his promotion was kept in waiting. He submitted that it was the fault of the petitioner to have not submitted the Self Appraisal Report and as a consequence of the same the ACRs could not be recorded and now the petitioner cannot turn around and say that his ACRs for some of the years where he did not submit the Self Appraisal Report have not been counted. He also submitted that the petitioner cannot be permitted to take advantage of his own wrongs in this regard and so far as the respondents are concerned, they are bound by Annexure R-1 which were the instructions issued by the State of Haryana in this regard. He submitted that in this way so far as the grievance of the petitioner that he ought to have been granted the further promotion to the post of Superintendent by counting his earlier date is concerned, the same is not available to the petitioner because the petitioner has in fact been promoted in the year 2016 and not in the year 2014 and therefore, the present petition is liable to be dismissed.

5. I have heard the learned counsels for the parties.

6. The grievance of the petitioner in the present case is that the petitioner is seeking his promotion from the year 2014 when his other colleagues were promoted, whereas in fact he was promoted in the year 2016 with retrospective effect from the year 2014 itself. At the time when the petitioner was considered for promotion in the year 2014, the respondents applied Annexure R-1 wherein it has been so provided in the instructions that



for being promoted to a higher post an employee must have achieved the benchmark of 70% of 'Good' ACRs and for that purpose, last 10 years of ACRs are to be considered. In this way, the ACRs from the years 2003 till 2013 were to be considered and the petitioner was required to have at least 70% of 'Good' but he had only 62% as 'Good' or 'Very Good' which was short of 70% and, therefore, as per the learned counsel for the respondents the petitioner's seat was kept vacant and thereafter again for 2/3 times he was considered for promotion but the aforesaid percentage of 70% was not achieved and it was only in the year 2016 when the ACRs for the years 2006 to 2016 were considered, then he had more than 70% of Good ACRs and in this way, in the year 2016, he was promoted to the post of Deputy Superintendent. When the petitioner was promoted in the year 2016, he was given retrospective date of promotion from the year 2014 itself and in this way, the petitioner has not been adversely affected because he has been promoted from the date when his juniors were promoted in the year 2014.

7. However, the grievance of the petitioner is that he ought to have been promoted in the year 2014 itself for which he would have gained an experience for further promotion to the post of Superintendent but because of falling short of two years, his total years of experience as Deputy Superintendent for further being promoted to the post of Superintendent was curtailed. It is also the case of the learned counsel for the petitioner that he did not reach the level of 70% of good ACRs as some of the ACRs were missing/not recorded, whereas, it is the case of the learned counsel for the respondents that the reason as to why the ACRs were missing/not recorded was

because the petitioner himself had not submitted his Self Appraisal Reports and a consequence of the same his ACRs could not be recorded and since it was the fault of the petitioner himself now he cannot turn around and say that why his ACRs were not recorded.

8. This Court is of the considered view that so far as grant of benefit of promotion from the year 2014 when the juniors of the petitioner were promoted is concerned, the same has already been granted to the petitioner and therefore, on that account nothing would survive in the present petition in this regard.

9. So far as the grievance of the petitioner that he has been deprived of further promotion to the post of Superintendent on account of his reduction of the years of experience is concerned, this Court is of the considered view that the aforesaid grievance is misconceived in view of the fact that it was because of the fault of the petitioner that the Self Appraisal Report was not submitted by him and therefore, now at this stage, no such direction can be issued for increasing his total years of experience by two years, even though he did not work on the aforesaid post because he was promoted in the year 2016 w.e.f. 2014.

10. Consequently, finding no merit in the present writ petition, the same is hereby dismissed.

07.11.2024

(JASGURPREET SINGH PURI)

rakesh

JUDGE

Whether speaking	Yes/No
Whether reportable	Yes/No