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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-20581-2020 (O&M)
Date of Decision:02.02.2024

BALJIT SINGHPetitioner
V/s.
STATE OF PUNJAB AND ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Madhav Pokhrel, Advocate for the petitioner.

Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. By way of this Writ Petition, the petitioner has prayed for issuance of writ of *Mandamus* for directing the respondents to promote him from the post of Senior Assistant to Superintendent Grade-II from the date he has completed the three years of experience as Senior Assistant by counting the service rendered by him in the Armed Forces.

2. Admittedly, the petitioner is not senior enough, however, he claims that the persons, who are senior to him, do not possess the requisite experience and he is granted a benefit of claiming the period of service rendered with the Armed Forces to count the total period of experience namely eight years by counting five years' experience for the service rendered with the Armed Forces and three years with the department.

3. Learned counsel for the petitioner, thus, submits that the petitioner, who may be lower in seniority, ought to be considered for promotion based on the total experience which goes to his credit on account of having remained in Armed Forces.

4. Learned State counsel has submitted that the provisions relating to experience is only a concessional provision. However, the promotions are made solely on seniority basis and since there are persons above the petitioner in seniority, they would have to be first considered for promotion and as and when the petitioner falls within the zone of consideration, he would be also considered and at that relevant time, the benefit of experience of 5 years for service rendered in the Armed Forces would be considered for the purpose of treating the petitioner eligible for promotion.

5. I have carefully considered the submissions of the learned counsel for the parties.

6. There are two aspects for promotion. First is eligibility and another is seniority. While the petitioner may have acquired eligibility, he is not senior to them for considering him for promotion. However, once he comes within the zone of consideration for promotion, he would be entitled to be promoted even if a person higher in the zone of consideration does not possess the requisite experience. Having said so, this Court is satisfied that as on today, since the petitioner does not fall within the zone of consideration, he has no claim for the promotion. However, in future as and when the exercise of promotion is conducted and the petitioner falls within the zone of consideration, he would be entitled for consideration of his period of service rendered with the armed forces for counting the total requisite eight years service.

7. Learned counsel for the petitioner submits that there are several posts lying vacant with the respondents and as per his instructions, at least 13 posts are vacant for promotion, however, the respondents are not conducting

the exercise of promotion. It is also stated that as on today, the petitioner has gone to No.7 in the seniority and therefore, he becomes fully eligible for consideration for promotion.

8. Having noticed the aforesaid aspect, the respondents are directed to conduct an exercise for promotion within the period of four months from today and if the petitioner falls within the zone of consideration for promotion, his case will be considered in the aforesaid terms.

9. With the aforesaid observations, this Writ Petition stands partly allowed as above.

10. All pending applications in this case stand disposed of accordingly.

February 2, 2024
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>