

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:046339

(101) CM-5517-CWP-2024 in/and
CWP-27926-2018
Date of Decision : April 05, 2024

Kanwar Pal .. Petitioner

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Chaitanya Rai Vashishth, Advocate, for the petitioner.
Mr. Harish Nain, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-5517-CWP-2024

Present application has been filed for recalling the order dated 19.03.2024, by which, the present writ petition was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Mr. Harish Nain, AAG, Haryana, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 19.03.2024 is recalled and the writ petition is restored to its original number and status and on the joint request of the parties, the main writ petition is taken up for hearing.

CWP-27926-2018

1. In the present writ petition, the prayer of the petitioner is that the petitioner is entitled for promotion to the post of Havaladar Instructor w.e.f. 22.11.985 i.e. from the date employee junior to the petitioner was promoted with all consequential benefits.

2. Certain facts may be noticed for the correct appreciation of the issue in hand:-

3. The petitioner joined as a Class IV employee on 25.06.1981. Another employee namely Jagbir Singh joined on 22.01.1982. Sh. Jagbir Singh was promoted as Havaladar Instructor on 22.11.1985. The petitioner never raised any grievance with regard to the promotion of said Jagbir Singh and the petitioner got promotion on the said post on 06.09.1994. Thereafter, Jagbir Singh was further promoted as platoon commander on 04.09.2006 and the petitioner got promotion to the said post on 16.02.2009. Thereafter, Jagbir Singh was further promoted as Company Commander on 07.01.2013 whereas the petitioner was promoted as Company Commander on 19.05.2014. Ultimately, the petitioner retired from service on attaining the age of superannuation on 22.02.2018 from the said post.

4. The prayer of the petitioner is that as the petitioner was appointed on Class IV post prior to Jagbir Singh, he should be granted promotion w.e.f. the date employee junior to him has been granted promotion along with all consequential benefits.

5. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that keeping in view the fact that the petitioner did not fulfill the requirement for promotion to the post of

Havaladar Instructor as the petitioner was not a matriculate and the Jagbir

Singh was matriculate at the time when he was promoted as Havaladar Instructor in the year 1985 and when the petitioner attained the qualification of matriculation, he was promoted hence, no grievance can be raised qua the promotion of Jagbir Singh in preference to the petitioner.

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

7. Once in the year 1985, the instructions were issued by the respondents, a copy of which has been appended with the reply as Annexure R-1, that only the matriculate Class IV employee will be entitled for consideration for promotion as Havaladar Instructor and Jagbir Singh having the said qualification participated and got selected and further got promoted in preference to the petitioner hence, no grievance can be raised especially when it is a conceded position that the petitioner did not fulfill the said requisite qualification of matriculation in the year 1985 when Jagbir Singh got promotion, which qualification of matriculation he only attained in the year 1992. Keeping in view the said fact, promotion of Jagbir Singh in preference to the petitioner in the year 1985 cannot be treated as arbitrary or illegal.

8. Further, the prayer of the petitioner for the grant of promotion as a Havaladar Instructor w.e.f. 1985 cannot be allowed as on the said date the petitioner was not eligible to hold the said post and as Jagbir Singh got promotion, he became senior to the petitioner qua subsequent promotions. Keeping in view the said fact, the petitioner cannot be granted the benefit which is being sought in the present writ petition.

9. No ground is made out for any interference by this Court in the present writ petition.

10. Dismissed.

April 05, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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