

2024:PHHC:058687

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

205

CWP-9010-2016 (O&M)
Date of decision: 30.04.2024

Birbal Nath
Versus
State of Punjab and Others
...Petitioner
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.K. Arora, Advocate for the petitioner
Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY. J. (ORAL)

1. The present petition has been filed for quashing the impugned order dated 25.04.2016, whereby promotion as Assistant Unit Officer given to the petitioner, while he was in service, vide order dated 09.05.2012, has now been withdrawn.
2. Learned counsel submits that the petitioner while working as Senior Unit Officer, retired on 31.03.2015, on attaining the age of superannuation, whereafter, he was granted extension of two years, but vide order dated 25.04.2016, impugned in the present petition, the date of promotion was changed and accordingly, his pay was reduced and recovery ordered from his retiral dues, which during the pendency of the present petition, have been released in terms of order dated 04.07.2023, which reads thus:

“1. This court notices that in-spite of a judgment passed by the Supreme Court on 18.12.2014 in a bunch of special appeals decided in '**State of Punjab and others vs. Rafiq Masih**' reported in 2015 (4) SCC 334 wherein directions were issued that no recovery shall be made from the respondents in the appeal and it was conceded by the counsel representing the appellant-State of Punjab that all the cases in the bunch of

appeals would fall within the first four categories as delineated by the Apex Court. The petitioner in appeal No. 11857 of 2014 was part of the said bunch.

2. In spite of the above, the Assistant Controller (Finance and Accounts) for Civil Surgeon, Sangrur passed an order directing the Superintendent, Administrative Branch to make recovery of sum of Rs.99.862/- from the petitioner. By another order, the Senior Medical Officer, Incharge, PHC, Bhawanigarh calculated and directed to recover for a sum of Rs.3,08,841/-.

3. Considering the judgment of the Supreme Court, it is apparent that both the officers have flouted the Supreme Court's judgment, and therefore are directed to remain present on the next date of hearing to explain their conduct.

4. Adjourned to 11.07.2023.”

3. However, the change of date of promotion and the selection grade have not yet been restored as the order dated 25.04.2016, is based on the seniority that was altered to the disadvantage of the petitioner and without notice to him. He on thus, at this stage, on instructions, submits that the petitioner would be satisfied, in case a time bound direction is given to the respondents to decide his claim taking into account the judgments passed by Hon’ble the Supreme Court in **Sushil Kumar Singhal vs. Pramukh Sachiv Irrigation Department and Others**, 2014 (16) SCC 444, Annexure P-16 as also by Co-ordinate Bench of this Court in **Sarabjit Kaur vs. State of Punjab and Others** in CWP-881-2015, decided on 02.05.2017, Annexure P-21 and after granting him an opportunity of hearing.

4. Learned State counsel has no objection to the limited prayer made.

5. In view of the above and without commenting on the merits of the case, this petition is hereby disposed of with a direction to the respondents to consider and decide the claim of the petitioner, taking note of the afore-referred judgments, within a period of 6 months, which this Court has no reason to believe the authorities would not address in a just, fair and reasonable manner. Upon doing so, after notice and hearing offered to him and if found entitled, grant the

benefit forthwith. Needless to say, if the orders are adverse to his interest, the same shall contain reasons and the petitioner shall be free to seek legal redress thereupon.

(AMAN CHAUDHARY)
JUDGE

30.04.2024

M.Kamra

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