



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

232

CWP-24598-2021

Date of decision : 20.05.2024

Ashok Kumar

...Petitioner

V/S

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sharwan Sehgal, Advocate for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Mr. Parit Aggarwal, Advocate with
Mr. Harsh Aggarwal, Advocate for respondent No.3.

NAMIT KUMAR, J. (ORAL)

1. The instant petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following relief :-

“Directing the respondents to consider the petitioner for promotion after considering the relevant reserved quota i.e. Handicapped SC and also for adding his name in the seniority list dated 22.10.2021 (Annexure P-8) made for the purpose of promotion to the post of Sanitary Inspector.

Further prayed that till the name of the petitioner is not added in the seniority list, the promotion to the post of Sanitary Inspector may kindly be kept in abeyance.”

2. Short reply has been filed on behalf of respondent No.3, wherein it has been stated as under :-

“XX XX XX XX XX

3. That the present writ petition is liable to be dismissed as the petitioner has concealed the material facts from this

Hon'ble Court. The true facts of the case are that the petitioner was appointed as Safai Sewak vide appointment letter dated 30.10.2000 (P-1) under SC & Physically Handicapped quota. He was promoted as Sanitary Supervisor vide Order dated 31.1.2013 (P-3). For further promotion as Sanitary Inspector, a Diploma Course was required to be passed by all the employees. The petitioner sought permission to join such course which was granted vide letter dated 19.1.2021 (P-4). The petitioner claimed to have passed the said course vide certificate dated 17.8.2021 (P-5). It may be mentioned here that the petitioner has not got it formally entered in his service-book. Moreover, the seniority list dated 22.10.2021 (P-8) includes the names of the employees who have passed the diploma course upto January, 2021. Since the petitioner passed his course in August, 2021, his name was not included in the said seniority list (P-8). The names for promotion to the post of Sanitary Inspector were recommended vide letter dated 18.11.2021 (P-9) out of the said seniority list (P-8). Even as per the judgment dated 19.12.2019 (P-7) passed by this Hon'ble Court in CWP no.10402 of 2016 titled as 'Rajinder Kumar Vs. State of Punjab' alongwith various other judgments, the seniority list is to be prepared on the basis of dates of attaining eligibility by the employees of the Feeder Cadre. The name of the petitioner would be considered on the basis of date of his attaining eligibility, if entered in his service record. Therefore, this writ petition is pre-mature also as no person junior to him has been promoted.”

3. Since it is the stand of respondent No.3-employer that name of the petitioner would be considered on the basis of date of his attaining eligibility, if entered in his service record and the present petition is premature as no person junior to the petitioner has been

promoted, therefore, the present petition is disposed of with a direction to respondent No.3 to include the name of the petitioner in the seniority list of the post of Sanitary Supervisor to enable respondent No.3 to consider his case for further promotion to the post of Sanitary Inspector, as per seniority under the relevant rules.

20.05.2024
kothiyal

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No