

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

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CWP-19296-2023

Date of Decision :10.01.2024

Shyam Lal

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rajkapoor Malik, Advocate for the petitioner

Mr. Saurabh Mohunta, DAG, Haryana
assisted by Mr. Manjeet, Assistant, O/o Chief Principal,
Chief Conservator of Forest, Panchkula, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. Present petition has been filed challenging the order dated 25.06.2021 (Annexure P/9) passed by the respondents by which, the initial appointment of the petitioner vide order dated 07.03.2018 (Annexure P/10) has been modified.

2. Certain facts need to be noticed for the correct appreciation of the issue in hand.

3. The petitioner competed for the post of Forest Guard under the category of outstanding sportsperson (BC-B) in pursuance to the advertisement No.1 dated 06.03.2013 but the petitioner was not selected for the post in question and the said action was challenged by the petitioner by way of filing CWP-1728-2016.

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During the pendency of the said writ petition, the respondents

decided to appoint the petitioner and an appointment order dated 15.03.2018 was issued in favour of the petitioner, copy of which has been appended with the present petition as Annexure P/7.

5. As per appointment order dated 15.03.2018 (Annexure P/7), petitioner was appointed on the post of Forest Guard retrospectively w.e.f. 07.07.2014 along with consequential relief and seniority in pay scale of Rs.5200-20200 with grade pay of Rs.2000/- along with usual allowances as admissible. As the said appointment order was issued in favour of the petitioner by the respondents, the writ petition No.1728-2016 filed by the petitioner was rendered infructuous and was disposed of as such.

6. After joining the service, the petitioner claimed the consequential relief w.e.f. 07.07.2014 including salary and other financial benefits as granted by the respondents vide order dated 15.03.2018 but same were not extended to the petitioner and rather than complying the said order of appointment dated 15.03.2018 (Annexure P/7), the respondents modified the appointment order of the petitioner by passing order dated 25.06.2021 (Annexure P-9) that the petitioner will be given appointment notionally w.e.f. 07.07.2014 and the actual benefits will be given from the actual date of joining of duty i.e. 16.03.2018. Said order dated 25.06.2021 (Annexure P/9) by which the date of appointment of the petitioner has been modified is under challenge in the present petition.

7. Learned counsel for the petitioner submits that in writ petition i.e. CWP-1728-2016 filed by the petitioner, appointment order dated 15.03.2018 of the petitioner was placed before this Court, wherein, it was duly mentioned that the petitioner has been appointed retrospectively w.e.f. 07.07.2014 along with consequential relief and seniority and the said writ

petition was disposed of having been rendered infructuous and once the earlier writ petition was disposed of on the basis of a particular order, the same could not have been amended subsequently without the permission of the Court and rather amending the said appointment order subsequent to the disposal of the earlier writ petition by this Court amounts to contempt of Court.

8. Learned counsel for the petitioner further submits that in a similar case while considering the claim of the similarly situated candidate namely, Ranbir Singh, benefit of retrospective appointment has been given along with consequential benefit by the Coordinate Bench of this Court while passing order in **CWP-25157-2014 titled as Ranbir Singh vs. State of Haryana and others, decided on 10.07.2017**, hence, the respondents could not have amended the appointment order subsequently so as to mean that retrospective appointment of the petitioner is on notional basis and not for the grant of consequential benefits from the said date.

9. Learned State counsel concedes the factum that the petitioner was entitled for appointment in the year 2014 but due to certain reasons, he could not be given the said appointment and ultimately vide order dated 15.03.2018 (Annexure P-7), the petitioner was given benefit of retrospective appointment w.e.f. 07.07.2014 along with consequential benefits as well as seniority but submits that once the petitioner has actually discharged his duties from 16.03.2018, benefit of retrospective appointment for the grant of consequential benefits could not have been given hence, order dated 25.06.2021 (Annexure P/9) passed by the respondents is perfectly legal and valid.

10. I have heard learned counsel for the parties and have gone

through the record with their able assistance.

11. Once, the respondents themselves gave the petitioner retrospective appointment w.e.f. 07.07.2014 by stating the fact that petitioner was wrongly denied the benefit of appointment when other similarly situated employees were given the appointment and had undertaken before this Court that the petitioner is being appointed with retrospective effect along with consequential relief and seniority, respondents could not have been amended the said appointment order after the said undertaking of the respondents was accepted by the Court and the writ petition was disposed of having been rendered infructuous.

12. Subsequent amendment of the appointment order unilaterally by the respondents and that too without the permission of the Court is not acceptable.

13. Even otherwise, once the benefit of retrospective appointment and consequential benefit was extended in favour of the petitioner, in case, the said benefit is to be changed from retrospective to notional basis, the rule of natural justice should have been observed by the respondents and no unilateral change of the terms and conditions of the appointment order could have been done by the respondents hence, the impugned order dated 25.06.2021 (Annexure P/9) cannot held to be legal.

14. Further, a coordinate bench of this Court while considering the case of similarly situated candidate has already granted the consequential benefit upon retrospective appointment, while passing order in **Ranbir Singh's case (supra)**, hence, the same benefit cannot be denied to the petitioner.

15. Learned State counsel has not been able to differentiate the case

of the petitioner from that of Ranbir Singh so as to deny him the actual benefit of retrospective appointment.

16. Keeping in view the totality of the facts and circumstances of the present case as noticed hereinbefore, order dated 25.06.2021 (Annexure P/9) is set aside and the petitioner is held entitled for consequential relief as extended by the respondents vide order dated 15.03.2018 (Annexure P/7), which was presented before this Court, on the basis of which order, the earlier writ petition filed by the petitioner was disposed of having been rendered infructuous.

17. Let the benefit of the appointment order dated 15.03.2018 (Annexure P/7) be given to the petitioner within a period of 02 months from the date of receipt of copy of this order.

18. Present petition is allowed in above terms.

January 10, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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