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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-33099-2019 (O&M)
Date of Decision: 12.01.2024

BASIT ALI*Petitioner*
V/s.
STATE OF PUNJAB AND OTHERS*Respondents*

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Present: Mr. Rahul Dev Singh Sumbria, Advocate for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner by way of this Writ Petition has prayed for issuance of a Writ in the nature of *certiorari* for quashing the order dated 26.09.2019 (Annexure P-6) and order dated 26.09.2019 (Annexure P-7A) whereby he has been reverted back from the post of Instrument Supervisor to Beldar.

2. Learned counsel for the petitioner submits that the petitioner was working as Beldar and was further promoted on the post of Instrument Supervisor vide order dated 02.11.2018. The petitioner had to approach this Court as an order dated 26.09.2019 passed by the respondents reverting him from the post of Instrument Supervisor to that of Beldar alleging that he had not completed five years of service as Beldar at the time of his promotion and in terms of Rule 14-A of the Punjab Civil Services (General and Common Service Rules), Rules, 1994, (hereinafter referred to as “the Rules of 1994”), the order of promotion was liable to be withdrawn.

3. Learned counsel for the petitioner submits that no show cause notice or opportunity of hearing was given to the petitioner before reverting him from the post on which he was already working and also drawing pay.

4. Learned counsel for the petitioner submits that the order was passed in complete non-application of mind as Rule 14-A of the Rules of 1994 is with respect to the post of Clerks who are to be promoted to the post of Senior Assistants. Whereas, there is no such requirement for promoting on the post of Instrument Supervisor. The order, therefore, deserves to be quashed.

5. Learned State counsel has been unable to explain from their reply as to what is the basis of reversion of the petitioner from the post. It is stated, however, that respondents have a right to cancel, withdraw or change the promotion order of the petitioner without giving any notice and the petitioner did not fulfil the conditions of service, and there was a resentment shown by the PWD Field and Workshop Workers Union to the promotion granted to the petitioner. In view thereof, the reversion orders were passed. It is also stated that as per the official orders sent to the petitioner, the mention of the Rules of 1994 is absent. It is stated that the order received earlier by the petitioner which is impugned in the petition is not the original order, and the order was inadvertently signed.

6. Learned counsel for the petitioner has taken this Court to the order dated 26.09.2019 which wholly mentions that the order of promotion given to the petitioner stands null and void due to non-fulfilment of the terms and conditions of service. However, the respondents have not been able to explain from their reply as to what terms and conditions were not fulfilled by the petitioner.

7. It is apparently a case where under influence of the Union the respondents have acted and reverted the petitioner from his post. Such approach could not have been adopted as a substantive right is created in favour of a person who is promoted and the same cannot be taken away unless the due procedure of law is followed. The reason of resentment cannot be said to be a cogent reason for reverting a person.

8. The principles of natural justice have also not been followed while reverting the petitioner and the contention of the respondents that no notice is required to be given before reverting a person is liable to be rejected.

9. In the case of State of Uttar Pradesh and others Vs. Sughar Singh, (1974) 1 SCC 218, the Supreme Court has held as under:-

“In the instant case we have no doubt in our mind that the peculiar circumstance that from out of a group of about 200 officers most of whom are junior to the respondent, the respondent alone has been reverted to the substantive post of Head Constable makes it absolutely clear that there was no administrative reason for this reversion. In fact there was no suggestion at any time made on behalf of the appellant that the post has been abolished or that respondent was, for administrative reasons, required to go back to Ms own post of Head Constable. This circumstance only corroborates what the learned standing counsel for the State admitted before the High Court that the foundation of ,the order of reversion is the adverse entry made in his character roll. In this view of the matter, we have no doubt. that the order was passed way of punishment, though all outward indicate show the order to be a mere order of reversion. Even if it were not so, we have no doubt that the order would be liable to be quashed on the ground of contravention of articles 14 and 16 of the constitution. In these circumstances, the appeal mu% be dismissed with costs and we do so. State Of Uttar Pradesh & Ors vs Sughar Singh on 22 November, 1973 Indian Kanoon - <http://indiankanoon.org/doc/1752052/> 13 Before parting with this case, we think it only fair to mention that in Writing this judgment we have derived considerable assistance from a draft of

the judgment prepared by our late-Brother Mukherjea, J., who sitting with us, heard the case in the first instance.”

10. In view of the above, the order of reversion dated 26.09.2019 (Annexure R-7A/Annexure R-4) is quashed and set aside.

11. In view of the above, interim stay granted by this Court vide order dated 26.11.2019 of keeping the impugned order in abeyance, is made absolute. The petitioner shall be allowed to draw all benefits for the post of Instrument Supervisor and would also be entitled for any consequential benefits of promotion.

12. All pending applications in this Writ Petition stand disposed of accordingly.

January 12, 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>