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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18484-2018(O&M)
Date of decision: 16.04.2024

Ashok Kumar

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Abhishek Kumar Premi, Advocate, for the petitioner.

Mr. R.K.S. Brar, Addl. A.G, Haryana.

Mr. Deepak Balyan, Advocate, for respondents No.2 to 4.

Mr. Manjeet Singh, Advocate, for respondent No.5.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the order dated 25.06.2019 (Annexure P-30) and order dated 28.05.2018 (Annexure P-20). It was further prayed that respondent No.4 be directed to consider the case of the petitioner to be promoted to the post of Administrative Officer Grade-II being senior most eligible candidate as per seniority list dated 01.04.2016 (Annexure P-8).

2. All the learned counsels for the parties have submitted during the course of arguments that during the pendency of the present petition both the petitioner and the private respondent No.5 have retired.

3. Learned counsel for the petitioner has submitted that it is a case where the petitioner ought to have been promoted and private respondent No.5 was wrongly promoted and the benefit of the judgment of Hon'ble Supreme Court in ***Sube Singh Bahmani and others Versus State of Haryana, 1999 (8) SCC 213*** was to be given effect to.

4. All the learned counsels for parties are *ad idem* that since the petitioner and private respondent No.5 have already retired now the claim of the petitioner is only to the extent of claiming notional seniority, notional promotion and thereafter, consequential benefits, if any and therefore, the petitioner can now file an adequate representation to respondent No.3 for considering the aforesaid limited prayer of the petitioner in the light of the aforesaid judgment of the Hon'ble Supreme Court in ***Sube Singh Bahmani and others Versus State of Haryana (Supra)*** and to decide the same in a time bound manner.

5. On the other hand, Mr. Deepak Balyan, learned counsel appearing on behalf of respondents No.2 to 4 has stated on instructions that he has no objection in case the claim of the petitioner now with regard to notional seniority, notional promotion and consequential benefits, if any, is considered afresh by respondent No.3 in accordance with law and an order will be passed within a time frame work fixed by this Court.

6. In view of the aforesaid facts and circumstances and the statement made by learned counsel for respondent No.3, the present petition is disposed

of. The petitioner will be at liberty to file a detailed application/representation to respondent No.3 within a period of one month from today. In the event of the petitioner doing the same, respondent No.3 shall thereupon within a period of next three months pass a speaking order by considering all the pleas taken by the petitioner in the representation and also in the light of the aforesaid judgment of the Hon'ble Supreme Court in *Sube Singh Bahmani and others Versus State of Haryana (Supra)*. Needless to say that the petitioner or his counsel shall be granted opportunity of hearing before passing any order. In case the petitioner is found to be entitled for any relief pertaining to notional seniority/notional promotion/consequential benefits, then the same shall be calculated and paid to the petitioner within next three months and in case the petitioner is not found to be entitled, then the petitioner shall be at liberty to challenge the same in accordance with law.

6. All the miscellaneous applications, if any, shall be deemed to be disposed of since the main case has been disposed of.

(JASGURPREET SINGH PURI)
JUDGE

16.04.2024
rakesh

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