



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-374-2020(O&M)

Date of Decision: 5th of March, 2025

FOOD CORPORATION OF INDIA AND ANOTHERAppellant (s)

V/s.

SURINDER SINGH TAXAK AND OTHERSRespondent(s)

CORAM: **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. K. K. Gupta, Advocate for the appellants.

Mr. Surinder Singh Taxak, respondent No.1 in person.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The present LPA is preferred by the appellant-FCI assailing order dated 22.11.2019 whereby the learned Single Bench has allowed CWP-6978-2016 filed by the respondent No.1 (writ petitioner therein) and the impugned orders dated 07.08.2014, 16.10.2014 and 22.12.2015 were set aside and the appellants (respondents therein) were directed to revise the seniority of respondent No.1 in the cadre of Deputy General Manager in terms of his entitlement, as per his seniority in the feeder cadre.

2. The brief facts leading to filing of Writ Petition bearing CWP No.6978 of 2016 are that while respondent No.1 was posted as Area Manager / Assistant General Manager, he was issued with charge-sheet dated 24.02.2009 under the Regulation 58 of the Food Corporation of India (Staff) Regulations, 1971 (hereinafter referred to as "the Regulations of 1971"). During the pendency of the disciplinary proceedings, the meeting of the Senior Promotion Committee was held on 17.04.2009 for promotion



from the post of Area Manager / Assistant General Manager to the post of Deputy General Manager (General), which is a selection post under Regulation 10 read with Appendix-1 of the Regulations of 1971. Since, the respondent No.1 was facing the disciplinary proceedings in the aforesaid charge-sheet, therefore, the recommendations of the DPC *qua* respondent No.1 was kept in a sealed cover and private respondents were promoted as Deputy General Manager (General) against the panel year 2009.

3. Learned counsel for the appellant submitted that respondent No.1 has challenged the consequent seniority list dated 16.01.2014, wherein his name appeared against the panel year 2011 and the orders of rejection of his representation.

4. Learned counsel for the appellant submits that the learned Single Bench has erred in interpreting the law as laid down by the Hon'ble Supreme Court in the case of **Union of India and Others** Vs. **K.V. Jankiraman and Others**, AIR 1991 Supreme Court 2010, and has wrongly awarded respondent No.1 the relief of revised seniority in the cadre of the Deputy General Manager and has wrongly set aside orders dated 07.08.2014, 16.10.2014 and 22.12.2015 and prays for setting aside the impugned judgement passed by the learned Single Bench.

5. *Per contra*, respondent No.1 appearing in person submits that he was senior to all the private respondents in the cadre of AGM and had been denied promotion solely on the ground that a charge-sheet was pending against him and he was further promoted on 11.09.2013 subsequently as Deputy General Manager. As per the instructions dated 02.02.2010 issued by the Department of Personnel and Training, Clause (vi)



to Rule 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, was substituted, which reads as under:-

- “(vi) *reduction to lower time scale of pay, grade, post or service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the Government servant during such specified period to the time scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the specified period:-*
- (a) *The period of reduction to time scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what*
- (b) *The Government servant shall regain his original seniority in the higher time scale of pay, grade, post or service.”*

6. The Fundamental Rules were amended vide notification dated 27.10.2013 and new Rule 29 (2) was substituted, which reads as under:-

- “(2) *If a Government servant is reduced as a measure of penalty to a lower service, grade or post or to a lower scale, the authority ordering the reduction shall specify-*
- (a) *The period for which the reduction shall be effective; and*
- (b) *Whether, on restoration, the period of reduction shall operate to postpone future increments and, if so, to what extent.*
- (c) *The Government servant shall regain his original seniority in the higher service, grade or post on his restoration to the service, grade or post from which he was reduced.”*

7. Respondent No.1, therefore, submits that as per the aforesaid provisions, he was entitled to regain his original seniority in the higher service, grade or post on his restoration to the service from which it was



reduced. Since respondent No.1 was senior to others, he would be entitled to restoration once he is promoted to the rank of Deputy General Manager.

8. We have considered the submissions of learned counsel for the parties and carefully gone through the circular and amendments as noticed above and find that the interpretation taken by the learned Single Bench would go principally against the law as settled by the Supreme Court in the case of Union of India and Others Vs. K.V. Jankiraman and Others (Supra). The said law as laid down was again followed by the Apex Court in the case of Union of India and Another Vs. S. C. Parashar; 2006 (3) SCC 167.

9. While we notice that the learned Single Bench has also noticed the judgments as above, but the final view taken by the learned Single Bench falls contrary to what has been observed by the apex Court.

10. We notice that respondent No.1 had been punished with a major punishment i.e. reducing of his three increments in the present scale of pay for a period of two years which were to operate prospectively postponing his future increments too, thus, the reduction of three increments was with cumulative effect. He would, therefore, permanently draw salary three increments less than his counterparts in the same pay scale. However, in view of the judgment passed by the Supreme Court in the case of Union of India and Another Vs. S. C. Parashar (Supra), he was entitled for being considered for further promotion subsequently.

11. We find that respondent No.1 has been considered for promotion and has also been awarded promotion subsequently on the post of Deputy General Manager, however, a question arises whether promotion



can be said to be retrospective and from the date his juniors were promoted. In our opinion and in view of the nature of punishment awarded to respondent No.1, it is apparent that w.e.f. 2009 till awarding of the punishment, he was not entitled for promotion as he has been ultimately held guilty in the departmental proceedings. Thus, the sealed cover could not have been opened in his favor. The private respondents were promoted in the year 2009. So far as the drawing of seniority is concerned, it has to be based on the year of empanelment of promotion. Since, the respondent No.1 was empanelled in promotion order w.e.f. 2012, which, of course, is not under challenge, whereas his juniors have been promoted in the year 2009, therefore, granting him seniority over and above them, would render the entire exercise of awarding of punishment to respondent No.1 as meaningless.

12. In view of the aforesaid, the order of learned Single Bench is therefore, not sustainable and we accordingly set aside the order dated 22.11.2019. The appeal is accordingly allowed.

13. No costs.

14. All pending applications in this case are disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[MEENAKSHI I. MEHTA]
JUDGE

March 5, 2025
Ess Kay

Whether speaking / reasoned	:	Yes
Whether Reportable	:	Yes