



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

237

CWP-5738-2021 (O&M)

Date of decision: 25.03.2025

Shri Kishan Singh

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Sourabh Bhorla, Advocate for the petitioner.

Mr. Tapan Kumar, AAG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

CM-1444-CWP-2024

The instant application has been filed for staying the promotion to the post of Work Supervisor.

Learned counsel for the applicant-petitioner wishes to withdraw the instant application.

Disposed of as withdrawn.

Main case:

1. Prayer in the present petition is for directing the respondents to give promotion to the petitioner to which he is entitled to.
2. Learned counsel appearing on behalf of the petitioner contends that the petitioner was engaged as 'Mate' on daily wages by respondent No.3 on 01.04.1992 at D.C. Rates. The petitioner had since then been performing his duties properly with full satisfaction and without any complaint, however, he was terminated from the service on 30.10.1996 without any notice or compensation and in violation of Section 25F of the Industrial Disputes Act, 1947. Consequently, the petitioner submitted a demand notice under Section 2A of the Industrial Disputes Act, 1947 but the same having



failed to fructify in an amicable resolution, a reference was made under Section 10 of the of the Industrial Disputes Act, 1947. The Labour Court, Ambala passed an award on 22.10.2002 whereby the termination order of the petitioner was set aside and it was ordered that the petitioner be re-instated in service with continuity of service. In compliance thereof, the respondents vide office order bearing No.100 dated 29.06.2004 regularised the services of the petitioner as *Beldar* w.e.f. 01.10.2003 in the pay-scale of Rs. 2550-55-2660-E.B.-60-3200. He contends that the petitioner has served for more than a period of 25 years and has an unblemished service record. He is Matriculate and a diploma holder in Civil Engineering from Himalayan University, Itanagar, Arunachal Pradesh. It is contended that the petitioner made a request for promotion to the post of 'Road Inspector' on 01.03.2017 since he possessed the requisite qualification for said promotion. The application was, however, rejected by the respondents and the promotional post was denied to him on the ground that the same stands abolished and had been converted into a diminishing cadre. The petitioner thereafter made another representation for being promoted to the post of 'Work Supervisor'. The said request was forwarded to respondent No.2-Superintending Engineer, Chandigarh Circle, PWD (B&R) Branch, Chandigarh on 22.05.2017. But the needful has not been done notwithstanding that 50% posts were required to be filled-up by way of promotion from amongst the 'Mate/Beldar/Helper' etc. The petitioner refers to the seniority list of Matric pass Beldar, Chandigarh Circle as on 31.03.2010 to contend that the name of the petitioner is at Sr. No.56 while



juniors to the petitioner had been promoted to the post of Clerk ignoring the seniority list. The persons at Sr. No.57 and Sr. No.60 have also been promoted by the respondents to the post of Clerk but the said benefit has not been extended to the petitioner. Hence, the present writ petition has been filed.

3. The argument advanced by the counsel for the petitioner is that the respondents did not take cognizance of the qualification of the petitioner and also didn't consider him for promotion to the post of Clerk despite him being senior to the persons at Sr. No.57 and 60 in the seniority list of Class-IV employees who have passed the Matriculation examination and had given willingness for promotion to the post of Clerk.

4. No other argument has been advanced by the learned counsel for the petitioner.

5. Learned State counsel on the other hand referred to the written statement filed on behalf of the respondents by the Executive Engineer, Provincial Division, Haryana PWD (B&R) Branch, Panchkula and contends that the entire case of the petitioner is misconceived. He contends that the petitioner has been requesting for change of his promotional post at every stage. At the present stage, the petitioner has been claiming promotion to the post of Clerk whereas in the representation submitted by him in March-2017, he claimed that he should be promoted as a Road Inspector in the respondent-Department to which he was informed that the said post is in diminishing cadre and was no more a promotional avenue. The next request was submitted by him for promotion to the post of Work Supervisor. He



contends that the case now set-up by the petitioner is that he should be promoted to the post of Clerk since the persons mentioned at Sr. No.57 and 60 have been so promoted. He contends that as a matter of fact, the post of Clerk is not a promotional post for a Beldar. A reference is made to the specific averments contained in the preliminary submissions and it is submitted that the seniority list of Matric passed Beldars was issued by the Department on 31.03.2010 in which the name of the petitioner was at Sr. No.56. The said seniority list had been prepared since the respondent-Department had invited applications from Matric passed Class-IV employees, who were willing for being appointed to the post of Clerks due to scarcity of Clerks on 08.04.2016. The above decision had been taken by the respondent-Department to fill-up the posts of Clerk, as a one-time measure, from amongst Class-IV employees having Matric qualification. Out of 58 employees, as have been set out in the purported seniority list attached as Annexure P-5 and relied upon by the petitioner, only 35 Class-IV employees exercised their option for being promoted to the post of Clerk. The petitioner never exercised an option for the same, hence, he could not be promoted to the said post. The request submitted by the petitioner on 28.3.2017 to the effect that he may be promoted to the post of Work Supervisor instead of Road Inspector by placing reliance on the fact that he holds Civil Engineering Diploma from Himalayan University, Itanagar, Arunachal Pradesh, it was intimated to the petitioner on 22.05.2017 that there is no separate quota in the service rules to promote a diploma holder Beldar and that his promotion will be done as per his own seniority



and after considering the eligibility for the said post.

6. The petitioner also submitted an application for promotion to the post of Junior Engineer which was supported by the letter dated 08.11.2017 of the Haryana Government PWD Mechanical Workers Union. The said claim for promotion was based on the Diploma obtained by him from Himalayan University, Itanagar, Arunachal Pradesh. The same was also rejected by the respondent-Department on 14.03.2018 since the Diploma obtained through Distance Education mode was not valid. It is further submitted that there are two categories of feeder cadre for promotion to the post of Work Supervisor i.e. from amongst the Diploma-holder Beldars and second on the basis of their own seniority. Since the diploma possessed by the petitioner from Himalayan University, Itanagar, Arunachal Pradesh is not a recognised diploma having been obtained through Distance Education mode, hence, the petitioner can claim for promotion to the post of Work Supervisor only as per his own seniority. He contends that in the seniority list of Work Supervisors the petitioner stood at Sr. No.17 and he will be promoted at his own turn. The aforesaid written statement had been filed by the respondents on 16.07.2021 and despite a lapse of more than 3 ½ years, no replication/rejoinder to the same has been filed by the petitioner controverting the said facts and the claim made by the respondent-Department. Hence, the assertion of the respondents has remained uncontroverted.

7. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petition



with their able assistance.

8. The stand of the respondent-Department giving reasons about consideration of request of the petitioner for different posts and the order of rejection remains undisputed. No rule or provision has been cited by the counsel on the basis whereof the decision of respondents could be faulted with. The channel of promotion available for petitioner has also been specified and it is also submitted that he shall be promoted on his seniority. No document or evidence has been brought before this Court to establish that any person junior to the petitioner has been promoted except for the post of Clerk for which the petitioner never submitted an option and hence, he is stopped from raising any grievance about the same.

9. The claim of the petitioner for being promoted to the post of Work Supervisor on the strength of his Diploma was rejected since the Diploma in Civil Engineering from Himalayan University, Itanagar, Arunachal Pradesh, was invalid as the same was also obtained by the petitioner through Distance Education mode.

10. The petitioner has failed to refer to any instructions/office order/circular issued by the competent authority which may dispute the aforesaid reasons cited by the respondents for non-consideration of his claim amongst the Diploma-holder category of Work Supervisor. Hence, the petitioner could not have been considered in the said category. Consequently, the entitlement of the petitioner, if any, for his promotion is only against the quota meant for promotion from amongst the Beldars based on seniority. The respondents have specifically averred in the reply filed



before this Court that the petitioner was eventually promoted on his own seniority in the running merit list.

11. I find that there is no illegality or perversity in the action taken by the respondents and the counsel for the petitioner has failed to establish his entitlement for promotion to any of the posts against which the representations/applications had been submitted by him. Consequently, the writ petition lacks merit and is **accordingly dismissed**.

(VINOD S. BHARDWAJ)
JUDGE

25.03.2025

Mangal Singh

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