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

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CWP-2460-2000 (O&M)

Date of Decision :28.04.2025

Kuldip Rani

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashok Gupta, Advocate for the petitioner.

Mr. T.P.S. Chawla, Senior DAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, the challenge is to the order dated 20.12.1999 (Annexure P/6) passed by respondent No.3 by which, the reversion of the petitioner from the post of Senior Assistant to the post of Senior Clerk has been effected.

2. Learned counsel for the petitioner argues that the said order passed by respondent No.3 is contrary to the order passed by the Hon'ble Supreme Court of India in **SLP (Civil) No.20108-1997 decided on 03.04.1998 titled as, Kuldip Rani vs. State of Punjab and others.**

3. Learned counsel for the petitioner submits that once a statement was made clearly before the Hon'ble Supreme Court of India by the respondents that the petitioner is continuing on the post of Senior Assistant,

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despite order of reversion passed on 03.04.1992, subsequent implementation of the said reversion order of petitioner from the said post could not have been effected vide impugned order dated 20.12.1999.

4. Upon notice of motion, the respondents have filed reply wherein, it has been stated that the petitioner was promoted to the post of Senior Assistant in the year 1988 but on 03.04.1992 vide (Annexure P/1), the promotion of the petitioner was withdrawn and she was reverted back to the post of Senior Clerk, which order was challenged by the petitioner by way of filing CWP-6019-1992 (Annexure R-1), which petition was withdrawn by the petitioner on 20.10.1992 and the order of reversion passed by respondent No.5 vide Annexure P/1 dated 03.04.1992 (Annexure P/1) became final.

5. As per respondents, later on, an employee namely, Krishan Lal was sought to be reverted by withdrawing his promotion in the year 1996 wherein, he filed CWP-16085-1996 and claimed that since he was senior to the petitioner and as the petitioner was continuing to work on the post of Senior Assistant even though being a junior to Krishan Lal, he could not have been reverted to the post of Senior Clerk and the claim of the Krishan Lal being senior to the petitioner so as to hold the post of Senior Assistant in preference to the petitioner was allowed by this Court vide order dated 01.09.1997.

6. The issue ultimately went up to the Hon'ble Supreme Court of India wherein, the Hon'ble Supreme Court of India was apprised of the fact that though, the order of reversion passed against the petitioner on 03.04.1992(Annexure P/1) had already attained finality but the petitioner



was allowed to continue on the post of Senior Assistant. Keeping in view the said affidavit filed by respondents, SLP (Civil) No. 20108-1997 was withdrawn by the petitioner. Thereafter, as the petitioner kept working continuously on the post of Senior Assistant despite having been reverted to the post of Senior Clerk in the year 1992, till the impugned order dated 20.12.1999 (Annexure P/6) was passed reverting the petitioner to the post of Senior Clerk. Said order is under challenge in the present petition.

7. Learned counsel for the respondents stated that reversion of the petitioner has been effected keeping in view the judgment of the Hon'ble Supreme Court of India in Saroj Rani and another vs. State of Punjab 1999(6) SCC 637, wherein, it has been stipulated by the Apex Court as to how the promotions are to be made to the post of Senior Assistant after withdrawing the Senior Assistant Grade Examinations. As per the directions given by Hon'ble Supreme Court of India all the post of Senior Assistant which arose up to the year 1991 were to be filled up from the qualified candidates and thereafter in the ratio of 70% from qualified candidates and 30% from the seniority list and upon conducting the said exercise, there was no post available so as to adjust the petitioner in the cadre of Senior Assistant due to non-availability of the post and therefore, the petitioner has been reverted.

8. The present writ petition was admitted on 23.09.2002 but there was no interim order to stay the order of reversion. As of now, the petitioner has already retired from service while performing the duties in pursuance to the impugned order dated 20.12.1999 (Annexure P/6).

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

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through the record with their able assistance.

10. The only assertion which has been raised by the learned counsel for the petition is that once despite an order being passed on 03.04.1992 (Annexure P/1) reverting the petitioner from the post of Senior Assistant to that of Senior Clerk, the same was not given effect to therefore, giving effect to the said order by the respondents vide order dated 20.12.1999 (Annexure P/6) is contrary to the stand taken by the respondent-State before the Hon'ble Supreme Court of India wherein, the State conceded that despite reversion order dated 03.04.1992(Annexure P/1), reverting the petitioner to the post of Senior Clerk, the petitioner is still continuing on the post of Senior Assistant.

11. The said argument has to be tested in view the certain facts. It is conceded fact that the order of reversion dated 03.04.1992 (Annexure P/1) was challenged by the petitioner by way of filing writ petition No.6019-1992 which petitioner was eventually withdrawn by her meaning thereby that the petitioner conceded to the order of reversion. Merely that the petitioner was not actually reverted to the post of Senior Clerk and was allowed to continue on the available vacancy of the post of Senior Assistant, does not mean that the petitioner's continuance on the post of Senior Assistant stood regularized.

12. Further assertion of the learned counsel for the petitioner before this Court is that the reversion of the petitioner vide impugned order dated 20.12.1999 (Annexure P/6) is contrary to the order passed by the Hon'ble Supreme Court of India.

13. A bare perusal of the order passed by the Hon'ble Supreme



Court of India would show that the only statement made therein was that the petitioner has been allowed to continue to work on the post of Senior Assistant despite reversion order dated 03.04.1992 (Annexure P/1) keeping in view the availability of vacancy of the said post. That being so, the Hon'ble Supreme Court of India never passed an order holding that the reversion of the petitioner vide order dated 03.04.1992 (Annexure P/1) was arbitrary and illegal or the same should not be given effect to. That being the factual position, the assertion of the learned counsel for the petitioner that impugned order dated 20.12.1999 (Annexure P/6) passed by the respondent-department is contrary to the order passed by the Hon'ble Supreme Court of India cannot be accepted.

14. Further, despite an order of reversion dated 03.04.1992(Annexure P/1), the petitioner was allowed to continue working on the post of Senior Assistant till there existed a vacancy in the said cadre of Senior Assistant. As per the respondents, keeping in view the judgment of the Hon'ble Supreme Court of India in **Saroj Rani (supra)** wherein, the directions have been given that up to the year 1991, the promotion to the post of Senior Assistant is to be made from the qualified candidates and thereafter in the ratio of 70% from qualified candidates and remaining 30% from the seniority list in the cadre of clerk and while implementing the directions of Hon'ble Supreme Court of India stipulated in the said judgment, the name of the petitioner could not come within the available post of Senior Assistant with the department therefore, there being no other option available with the respondent-department but to revert the petitioner to the post of Senior Clerk so as to accommodate the eligible candidates in

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accordance to the judgment of Hon'ble Supreme Court of India in **Saroj Rani (supra)**, the order impugned dated 20.12.1999 (Annexure P/6) reverting the petitioner to the post of Senior Clerk has been passed by respondent-department.

15. The said assertion has not been rebutted by the learned counsel for the petitioner. That being so, once, it is a conceded fact that there was no post available for the petitioner in the cadre of Senior Assistant so as to allow her to continue working on the post of Senior Assistant and the order of reversion dated 03.04.1992 (Annexure P/1) had already been accepted by the petitioner, the reversion so effected vide order dated 20.12.1999 (Annexure P/6) cannot be treated as arbitrary and illegal or contrary to the judgment of the Hon'ble Supreme Court of India.

16. Keeping in view the facts and circumstances recorded hereinbefore, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

17. Civil miscellaneous application pending, if any, is also disposed of.

April 28, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No