

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

CWP-13605-2017

Date of decision : 15.02.2023

Jagdish Singh and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rohit Mittal, Advocate
for the petitioners.

Mr. I.P.S. Kang, A.A.G., Punjab and
Mr. Rajesh Mehta, Addl. A.G. Punjab.

PANKAJ JAIN, J. (ORAL)

The petitioners who were working as Sectional Officers were aggrieved of promotion of their Juniors to the post of Assistant Town Planner. They approached this Court by way of CWP-111-1999, which was disposed of in the following terms:-

'Having regard to the facts in totality, I am of the opinion that the petition deserves to succeed and is, thus, disposed of in the following terms:

(i) the petitioners would be entitled to be promoted with effect from the date private respondents were promoted, since the petitioners are concededly senior to the said respondents.

(ii) the respondent-State is mandated to rectify the anomaly in the Rules by taking into consideration what has been observed earlier and in particular the merger of cadre since 1982.

(iii) Since the petitioners have not worked on the post, they would be entitled to notional promotion with no monetary consequences. However, for all other related service benefits, such a promotion would be considered to be relevant.

Petition is disposed of'.

The matter was taken by the petitioners in an intra Court appeal by way of LPA-1175-2016 (Jagdish Singh and others Vs. State of Punjab and others), the same was dismissed on the ground of delay and on merits the following observation was made:-

'Even on merits, no case to grant consequential monetary benefits is made out. Under the statutory Service Rules, only "Building Inspectors (Technical)" with 10 years' experience are eligible but despite merger of Sectional Officers and Building Inspectors in one cadre, the appellants who were originally Sectional Officers were denied promotion on the premise that they do not hold the post of 'Building Inspector'. It is in this backdrop that the learned Single Judge has directed the Rules Making Authority to rectify the anomaly, virtually a direction to amend the Service Rules. Since it was a case where the appellants could not be promoted for want of eligibility under the Existing Service Rules, denial of monetary benefits to them is fully justified.'

Feeling dissatisfied, the petitioners approached Apex Court by way of Special Leave to Appeal (Civil) bearing No.9608 of 2017 in which stands disposed of vide order dated 09.05.2017 in the following terms:-

".....In such circumstances, it is submitted that at least during the period the writ petitions were pending before the High Court, the petitioners should have been granted the actual monetary benefits instead of limiting it to notional basis. This is a matter that petitioners are free to point out before the High Court.

Therefore, this special leave petition is disposed of making it clear that in case such a prayer is made in an appropriate manner within thirty days from today, the High Court may consider the same on merits.

Pending application(s), if any, shall stand disposed of."

In view of the above, reading of the order passed by the Single Bench in CWP-111-1999, in the light of orders passed by the Apex Court, so far as the entitlement of the petitioners for promotion w.e.f. the date private respondents were promoted, stands settled in favour of the petitioners. However, the monetary benefits so denied by the Single Bench, cannot be sustained in view of the observations made by Apex Court .

Resultantly the petitioners are held to be entitled for monetary benefits from the date of filing of CWP-111-1999 onwards. The petitioners shall also be entitled for interest @6% per annum for the time period commencing from the date of filing of the writ petition till the date of actual realization. The necessary relief be released in favour of the petitioners within 12 weeks from the date of receipt of certified copy of this order. Failing which, petitioners will be entitled for interest @ 9% thereafter, which shall be recovered from the personal pocket of respondent No.1.

The present petition stands allowed.

15.02.2023

ps-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No