

2025:PHHC:008547-DB



LPA-43-2017 (O&M)

Date of Decision: 21.01.2025

Punjab National Bank and others

...Appellants

Vs.

S.S. Ahluwalia

...Respondent

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

Present Mr. Saurav Verma, Advocate for the appellants.

Mr. H.C. Arora, Advocate for the respondent.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. This appeal has been preferred against the order passed by the learned Single Judge dated 16.11.2016, whereby the learned Single Judge has directed as follows: -

“In view of these facts and circumstances, Annexure P-8 is set aside. The respondents are directed to reconsider the petitioner's name for promotion to the post of Middle Management Grade Scale-II and promote him retrospectively from the date his juniors were promoted. However, petitioner is not entitled to monetary benefits since he has retired from service in the month of April, 2007 and he has not worked in the promotional post. Therefore, notional pay fixation be made and re-fixation of his pension and other retiral benefits as per Rules while disbursing monetary benefits also within a period of six months from today.”

2. Learned counsel for the appellants submits that earlier the writ petitioner had preferred a writ petition challenging the adverse remarks

entered in his ACR for the year 1989-90, with a prayer to consider him for promotion. The aforesaid writ petition was disposed of vide order dated 10.02.2011, by holding that:-

“The petitioner’s claim is that he had applied for medical leave whereas the respondents would maintain that he had been absent. It would be for the respondents to consider this fact whether the assessment for the relevant period could have been made in respect of the petitioner or not. If the petitioner succeeds in his appeal and this report is interfered in any manner, the respondents would consider the case of the petitioner for promotion by excluding the same report from consideration. If the appeal is rejected, then the process of reconsideration may not be needed. This should not be taken to mean that this Court has expressed any opinion in regard to the validity of this report. It would in the discretion of the respondents to consider the case of the petitioner in accordance with law and pass any appropriate order. If the appeal filed by the petitioner is decided against him, he would be at liberty to raise the challenge against the order so passed, in accordance with law.”

Learned counsel further states the case of the writ petitioner was reconsidered and examined by the Chairman and it was held that the petitioner was awarded adverse remarks for the year 1989-90 taking into consideration his work performance for the period from 01.01.1989 to 04.02.1989 and also that he could not have been promoted in terms of the erstwhile New Bank of India Promotion Policy. The order passed by the

subject matter of challenge before this Court in the present petition, wherein, the petitioner introduced a completely new story that the adverse remarks for the year 1989-90 was un-communicated and, therefore, the same could not be taken into consideration for denying him promotion for the year 1991 and 1993.

3. We find that the petitioner had not taken such a contention in the first round of litigation which he had initially filed in the year 1993. It is also to be noticed that the ACR for the year 1989-90 was duly communicated and appeal against which was also filed by him on 30.11.1992 and the same was rejected on the ground that it had been filed after a period of 45 days. Thus, it is not a case where the adverse remarks in the ACR was not communicated to the concerned individual. The judgment passed in the case of **Abhijit Ghosh Dastidar vs. Union of India and others 2009 (16) SCC 146** and **Sukhdev Singh vs. Union of India and others 2013 (4) SCT 129**, would therefore, have no application to the facts of the present case.

4. Learned counsel appearing for the writ petitioner, however, submits that the petitioner was entitled for consideration of promotion as the adverse remark was downgraded from the earlier year. He also submits that the adverse remark was wrongly entered.

5. We have considered the submissions.

6. The writ petitioner has already retired way back in the year 2007. No one has a right of promotion. So far as ACR for the year 1989-90 is concerned, we are satisfied that the same was duly communicated to the writ petitioner.

7. In view thereto, the reasoning and findings arrived at by the learned Single Judge based on the sole contention that the ACR for the year

judgment passed by the learned Single Judge is, therefore, not sustainable in law and the same is accordingly set aside. The appeal is accordingly allowed.

8. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

21.01.2025
rajesh

1. Whether speaking/reasoned?

:

Yes/No
2. Whether reportable?

:

Yes/No