

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6604-1998

Date of Decision:-09.10.2017.

Vinod Jetley

.....Petitioner

Versus

State Bank of India and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Samarth Sagar, Advocate for the petitioner.

Mr. Ashok Gupta, Advocate for the respondents.

P.B. BAJANTHRI, J. (Oral)

Pursuant to the order dated 25.9.2017, respondents-bank have filed affidavit. The same is taken on record.

In the instant writ petition, petitioner has prayed for the following relief:-

“(a) a writ in the nature of certiorari may kindly be issued in favour of the petitioner and against the respondents for quashing the order dated 9.1.97, Annexure P-3, the order dated 17.2.97, Annexure P-7 and the order dated 6.5.1997, Annexure P-8 as also the memos dated 24.10.1997 and 16.12.1997, Annexures P-9 and P-10.

(b) a writ in the nature of Mandamus may kindly be issued in favour of the petitioner and against the respondents, directing the respondents to open the Sealed Cover Proceedings in respect of Promotion of the petitioner to SMGS-IV w.e.f. 1.11.1995, the result of which was declared vide circular dated 27.1.97 and

consequently to promote the petitioner in the aforesaid grade in view of the fact that he is amongst 57 officers from the Chandigarh Circle whose names were recommended for promotion by the Selection Committee.”

Petitioner's name was overlooked for promotion to the post of SMGS-IV on 1.11.1995 on the score that certain allegations were made against the petitioner. Those allegations were culminated into initiation of inquiry on 23.10.1996 by framing charges. The inquiry was concluded in imposing the penalty of censure on 09.01.1997. In this background, question for consideration is whether the petitioner is entitled to promotion to the post of SMGS-IV w.e.f. 1.11.1995 or not. Undisputedly, as on 1.11.1995, petitioner was not facing disciplinary proceedings. In other words, charge-sheet was not filed as on 1.11.1995. Therefore, as on 1.11.1995, petitioner was fully eligible. Merely certain allegations were made against the petitioner which were subjected to disciplinary proceedings initiated on 23.10.1996 i.e. much after the date of consideration of petitioner's name for promotion to the post of SMGS-IV on 1.11.1995. Therefore, rejection of petitioner's claim for promotion to the post of SMGS-IV on 1.11.1995 may not be correct for the reasons that as on 1.11.1995, no disciplinary or criminal proceedings were pending. Charge-sheet was filed only on 23.5.1996. As on the date of promotion, eligibility is required to be considered. Therefore, in not considering the petitioner's name for promotion to the post of SMGS-IV is arbitrary and illegal so also contrary to the decision of Supreme Court in the case of **Union of India and others Vs. K.V. Jankiraman and others 1991 SCC (4) 109.**

(Annexure P-7) and the order dated 6.5.1997 (Annexure P-8) as well as memos dated 24.10.1997 and 16.12.1997 (Annexures P-9 and P-10) are set aside. The concerned respondent is hereby directed to re-consider the petitioner's name for promotion to the post of SMGS-IV w.e.f. 1.11.1995 read with result which was declared vide circular dated 27.1.1997 and to promote him from the date of juniors' promotion and so also extend monetary benefits. Monetary benefits shall be calculated and disbursed. The above exercise shall be completed within 3 months from the date of receipt of certified copy of this order.

Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

October 09, 2017.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.