
(2013) 08 P&H CK 0823

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 1466 of 1993 (O and M)

Sat Narain Kadyan

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision: Aug. 1, 2013

Hon'ble Judges: Ajay Tewari, J

Bench: Single Bench

Advocate: R.K. Sharma and Mr. J.S. Jaidka, for the Appellant; Shruti Goyal, A.A.G., Haryana, for the Respondent

Final Decision: Disposed Off

Judgement

Ajay Tewari, J.

By this petition the petitioner seeks seniority over the respondent No. 5.

Brief facts of the case are that the petitioner was appointed as a Clerk in the Haryana Vidhan Sabha in the year 1969 and was appointed as Junior Scale Stenographer in September, 1975. The admitted fact is that he was appointed as English Reporter on 21.03.1977 for a period of six months with the following conditions:-

(i) that he may be reverted any time to his post of Junior Scale Stenographer if his work is not found to be satisfactory, and

(ii) that if he continues as English Reporter he would qualify the test at the requisite speed of 160 word per minute in English shorthand within a period of six months from the date of his appointment as English Reporter.

2. Admittedly, the petitioner could not qualify the English type test and continued to be appointed on six months basis. On 21.04.1981, he was sent to the Haryana Tourism Corporation on deputation and at that time sought provisional confirmation and gave the following undertaking:-

....I am ready to take the test in English Shorthand after the expiry of the period of six months and in case I am unable to qualify in the test, I shall have no objection to my provisional confirmation being undone and the person who qualifies the test prior to me be made senior to me.

3. Thereafter the petitioner was provisionally confirmed with effect from that date i.e. on 21.04.1981. Pursuant to that he took the test on 08.06.1981 and was confirmed w.e.f. that date. On the other hand, the respondent No. 5 was directly appointed as English Reporter on 18.01.1978. Since he qualified the test of English shorthand on 24.01.1979 he was confirmed as English Reporter on 21.02.1979. Ultimately by seniority list issued on 05.08.1986 the respondent No. 5 was shown senior to the petitioner. The petitioner filed representation on 30.01.1987 which was rejected on 31.03.1989. He filed two more representations which also met the same fate and then he came before this Court.

4. The only argument raised by learned counsel for the petitioner is that the petitioner was appointed as English Reporter prior to respondent No. 5 and therefore should be ranked senior to him.

5. Learned Assistant Advocate General has however countered by arguing that in the facts and circumstances of the present case where the petitioner himself gave undertaking reproduced above, it is clear that the petitioner also knew that seniority would be ranked from the date of regular appointment and that is why he specifically mentioned so in his undertaking and therefore for him to now argue that seniority should be seen from the date of first adhoc appointment for a period of six months is not permissible.

6. I find myself in agreement with the learned Assistant Advocate General. It is clear that the petitioner was provisionally promoted to the post of English Reporter and the conditions as mentioned above were imposed on him. Thereafter, he can not claim seniority to that post as the conditions imposed upon him was fulfilled only on 08.06.1981. Resultantly, no fault can be found with the impugned orders considering the respondent No. 5 to be senior to the petitioner.

7. Petition stands dismissed. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.