

(2011) 10 P&H CK 0129

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No.18423 of 1991 (O and M)

Nachhattar Singh

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision: Oct. 31, 2011

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

K. Kannan, J.

The petition is for issuance of a direction for mandamus for granting permission to the petitioner from the date when his juniors had been promoted. The petitioner's contention is that he was appointed as a Restorer on a scale of Rs.400-600 on 17.12.1982 and the respondents 4 to 6 were also appointed on the same date along with him. The respondents' services had been regularized subsequently and confirmed with effect from the date of their appointment by virtue of the resolution of the Market Committee passed on 24.04.1985, while the Market Committee promoted respondents 4 and 5 to the next higher post as the Auction Recorders. The petitioner, who was senior amongst them, was not promoted.

2. The basis of the claim for the petitioner is that through the establishment circular No.150, dated 08.08.1986, there had been no uniformity in the seniority of employees of Market Committees as were appointed in the grade of 400-600 as Kanda Man, Moharrar, Care Taker, Clerk, Rest-house attendant etc., and since all of them were eligible for promotion to the post of Auction Recorder, a common seniority list ought to be prepared from the date of their regularization, so that no employee is deprived of his due right. The petitioner refers to a resolution said to have been passed on 01.10.1986 by the Market Committee, Gidderbaha, referring to the representation made by the petitioner and recommending the petitioner's promotion to the post as Auction Recorder that was lying vacant. It appears that the petitioner had filed CWP No.14118 of 1991 making a similar prayer and this Court by

an order dated 12.09.1991 had disposed of the writ petition directing the Market Committee, Gidderbaha, to pass a speaking order. The Market Committee appears to have disposed of his representation with a cryptic observation that under the instruction of DESO, Punjab, Mandi Board, Ferozepur, Shri Jaspal Singh, Care-taker, who was eldest in age, was promoted as Auction Recorder from Care-taker.

3. The written statement had been filed by respondents 2 and 3 through the Secretary, Market Committee, Gidderbaha, referring to the fact that respondents 4 and 5 had been promoted on 29.03.1986 and 13.06.1986. The writ petition filed in the year 1991 is barred by laches. The respondents would contend that a seniority list had been issued on 03.03.1984 in which he had been shown as junior to respondents 4 to 6 and even when the seniority list had been confirmed in the year 1987, he had not challenged the same. The challenge to the appointment order of respondents 4 to 6 cannot be done without a challenge to the seniority list itself. The respondents would contend that apart from the fact that respondents 4 to 6 and the petitioner has been appointed on the same day, they were appointed to various different posts. Respondent No.5 has been appointed as Clerk-cum-Typist whereas respondents 4 and 6 were appointed as Clerks. The petitioner, on the other hand, had been appointed as a Restorer and the duties were different from the respondents 4 to 6. The promotion to the post of Auction Recorders were to be made only from amongst Clerks and when suitable Clerks were not available, then from other categories and if still no more suitable candidates available, then through direct recruitment. The post of the Restorer is not a feeder post for promotion to the post of an Auction Recorder. The petitioner had not even completed graduation and, therefore, his qualification was to be treated only as matriculation. Even the circular referred to by the petitioner dated 08.08.1986 made reference only to various posts other than Restorer which was in the scale of Rs.400-600. When the scales of pay were rationalized and rules were brought for various categories of employees, Restorer was placed in the scale of Rs.950-1800, while Clerks were placed in the scale of Rs.1000-1800.

4. I again see the petitioner could not have had a genuine grievance, for, he cannot treat himself at par with respondents 4 to 6 by the only fact that they were appointed on the same day or they had the same scales of pay to start with. There is nothing to indicate from the pleadings that the Restorer is entitled to promotion as Auction Recorder. The contention of the respondents that even the promotion which had been made to the respondents in the year 1986 could not have been a subject of challenge in the year 1991 is to be well founded.

5. There was no representation for the petitioner when the matter was called. The case is of the year 1991 and I have, therefore, proceeded to dispose of the case on the basis of pleadings and the records available. The petitioner cannot have the relief that he has sought for in the writ petition. It deserves to be dismissed and it is dismissed as such.