

(2010) 04 P&H CK 0235
In the Punjab And Haryana At Chandigarh

K.C. Verghese

APPELLANT

Vs

The Central Warehousing Corporation and Others

RESPONDENT

Date of Decision : 05-04-2010

Acts Referred:

Citation : (2010) 04 P&H CK 0235

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—The writ petition seeks for quashing of the order issued under Annexures P-3 and P-4 promoting respondents 5 to 7 to the next higher post as the Executive Engineer. The grievance of the petitioner is that he was senior to respondents 5 to 7 and the seniority could not have been overlooked. According to the petitioner, the promotion was denied to him only by the presence of the 4th respondent in the Departmental Promotion Committee, who had a personal bias against him. The petitioner sets out the details of the bias as having emanated from the fact that he had given a complaint against a particular officer, who was favourably disposed of with the 4th respondent and his own complaint against the officer stood vindicated when the vigilance enquiry was conducted and the person against whom the complaint was given was found to be correct. This predilection of the 4th respondent in favour of the higher officer against whom the petitioner gave a complaint, is said to have prejudiced, the 4th respondent in influencing the decision of the DPC and denying to the petitioner the promotion.

2. The statement has been filed by the respondents 1 and 2 pointing out to the fact that the post of Executive Engineer was a selection post and 75% posts are filled by way of promotion and the rest by direct recruitment or by deputation. Responding to the averment in the petition that he had been downgraded in ACR, the statement points out that there had been no downgrading in his ACR and he had been actually included in the panel of 9 candidates, who had been shortlisted

for selection to the promotion post. The petitioner had been duly considered but he was not found fit by relative grading with the respondents 5 to 7. The contention on behalf of respondents 1 and 2 also is that the DPC consisted of high ranking officers like General Manager, Commercial Manager, Manager Engineering, Personal Manager and Joint Manager (Technical). The selection had been made by the DPC in a joint meeting and it was specifically denied that there had been any bias against the petitioner.

3. Referring to the contention that the petitioner's downgrading had not been informed to him and therefore he had been put to prejudice, the response had been that the grading given by the Reporting Officer in the year 1985 had been accepted and the person, who had countersigned the ACR was one Shri M.K.Garg and not the person which the petitioner had named in the petition. It is also stated that the report of the Reporting Officer had been accepted by the authority and in the year 1986 also the petitioner's performance as "Good" had been countersigned by R.D.Kapoor. It is contended by the respondents that there had been no adverse remark recorded in the ACR of the petitioner and the nonselection to the post was not on account of adverse entries but on relative grading on the basis of merit.

4. If there had been even an error or mistake in the manner in which the ACR had been drawn or there was a complaint of the petitioner for downgrading of the petitioner, it should have been normally possible for referring the matter to the authorities again for fresh consideration. In this case, however, such an issue does not arise. The case instituted in the year 1987 comes up for disposal in 2010 when it is reported that even the petitioner has died. The whole case obtains relevance for consideration only for making an appropriate provision for family pension taking into account the promotion that he would have secured, if he had been in service. After all, he had not been found fit for promotion. There are too many "ifs" and "buts" which cannot survive for consideration now, especially when the post, which the petitioner was claiming, was a selection post and the decision had been taken by the DPC constituting 5 members but the prejudice alleged by the petitioner was only with reference to one of the persons in the Promotion Committee.

5. I do not think it is a fit case where the whole matter should merit consideration afresh not only for what is singularly lacking in the petition to sustain the serious allegation of bias but also on the ground that the petitioner who filed the case himself is not alive and the issue of consideration of entries in ACR cannot survive for consideration after 25 years. The writ petition is, therefore, dismissed.