
(2005) 10 P&H CK 0040
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 16540 of 2005

Pradeep Kumar and Others	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 18-10-2005

Acts Referred:

Constitution of India, 1950 — Article 16(4)

Citation : (2006) 142 PLR 41

Hon'ble Judges : S.S. Nijjar, J;Kiran Anand Lall, J

Bench : Division Bench

Advocate : Shailender Sharma and B.S. Tewatia, for the Appellant;

Final Decision : Dismissed

Judgement

S.S. Nijjar, J.—The petitioners were promoted as Cane Kamdars on 17.08.2002 pursuant to the orders passed by this Court in C.W.P No. 7645 of 2002. In the aforesaid writ petition, the petitioners had complained that one person Shamsheer Singh, who was junior to the petitioners, had been promoted. In order to implement the policy of reservation of the Government of India, the respondents issued a notice dated 27.09.2005 calling upon the promoted Cane Kamdars to explain as to why they ought not to be reverted to enable the Sugar Mill to promote the Kamdars from the Scheduled Castes category. In Show Cause Notice, the respondents have given a table of the total number of posts as well as the number of posts which fell to the share of the reserved category. Calculating the total strength and the number of posts available for the reserved category, the respondents had proposed to revert these junior most permanent Cane Kamdars. The petitioners are the junior most Cane Kamdars (permanent). The petitioners submitted their reply to the Show Cause Notice. It was pleaded by the respondents that they had been promoted in compliance of the orders passed by this Court in C.W.P. No. 7645 of 2002. It was further pleaded that the reservation policy was in the knowledge of the respondents, even at the time when the appointments were made on the posts of Cane Kamdars. The

petitioners cannot be blamed for non-implementation of the reservation policy by the respondent-Sugar Mill. These pleas of the petitioners have been rejected and the petitioners have been ordered to be reverted.

2. Learned Counsel for the petitioners argues that in addition to the points raised in the reply, the respondents have also committed an illegality in not forming a roster to give effect to the reservation policy. Without forming a roster, the petitioners could not have been reverted. Learned Counsel further submitted that even if reservation policy was to be made effective, the same has to be prospective and the same cannot be given effect retrospectively.

3. We have considered the submissions made by the learned Counsel for the petitioners. We are unable to accept the same. In view of the provisions contained in Article 16(4) of the Constitution of India, the respondents were duty bound to implement the policy of reservation. A perusal of the table reproduced in the Show Cause Notice shows that the respondents have not cared to implement the policy of reservation although the first appointment was made on 18.07.1983. Now a backlog for 22 years is being filled up. Consequently, the reversion of the petitioners cannot be said to be either illegal or arbitrary. In fact, the action of the respondents is justifiable as it is taken only to implement the policy of the Government issued under Article 16(4) of the Constitution of India. We also do not find any merit in the submission made by the learned Counsel with regard to the maintenance of the roster. Even if the vacancies are given to the reserved category on the basis of roster, the petitioners being the junior most would still have to be reverted. Even if a roster is operated, senior Cane Kamdars would only be pushed down in the seniority list. But they would still remain senior to the petitioners. Hence, the petitioners would have to be reverted being junior most Cane Kamdars. We are of the opinion that no legal right of the petitioners has been infringed.

Dismissed.