
(1980) 05 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1027 of 1980

Rattan Chand

APPELLANT

Vs

Director, Food and Supplies

RESPONDENT

Date of Decision : 22-05-1980

Acts Referred:

Punjab Food and Supplies Department (State Service, Class III) Rules, 1968 — Rule 9, 9P, 9Q, 9Y

Citation : (1981) 1 ILR (P&H) 449

Hon'ble Judges : J.M. Tandon, J

Bench : Single Bench

Advocate : D.V. Sehgal and Umed Kataria, for the Appellant; B.S. Wasu, for the Respondent

Final Decision : Dismissed

Judgement

J.M. Tandon, J.—Rattan Chand, Petitioner, joined the Food and Supplies Department, Punjab, as Sub-Inspector in 1972. He was promoted as Junior Analyst in 1975. On March 23, 1980, he was promoted as an Inspector. Feeling aggrieved by the order of promotion as an Inspector he has filed the present writ.

2. The conditions of service of the Petitioner in Food and Supplies Department, Punjab are governed by the Punjab Food and Supplies Department (State Service, Class III) Rules, 1968 (hereinafter called the Rules). Rule 9(Q) relates to the method of appointment as Junior Analyst and it reads:

(i) by direct appointment; or

(ii) by promotion from amongst Sub-Inspectors; provided they are Intermediate and have worked on the post of Sub-Inspector for a minimum period of 2 years; or

(iii) _____

Rule 9(Y) relates to the method of appointment as an Inspector and it reads:

(i) by direct appointment; or

(ii) by promotion from amongst Sub-Inspectors or Clerks working in the Department, or Junior Analysts who joined the Department as Sub-Inspectors and became eligible on the basis of their seniority as Sub-Inspectors, provided they have worked on their respective posts for a minimum period of 3 years; or

(iii) _____.

3. The scale of pay of a Junior Analyst as given in Appendix "A" to Rules is 80-4-120; and that of an Inspector is in four categories namely 80-190, 80-185, 90-160 and 80-150. The pay scales of Junior Analysts and Inspectors have been revised. The present pay scale of a Junior Analyst is 450-800 and that of an Inspector 570-1080. It is, thus, clear that the channel of promotion of Junior Analysts, who joined the department as Sub-Inspectors, includes the post of Inspector which also carries a higher scale of pay than that of a Junior Analyst.

4. Rule 9(P) of the Rules relates to the appointment of Head Analysts and it reads:

(i) by direct appointment; or

(ii) by promotion from amongst Junior Analysts or Inspectors who possess degree in B.Sc. or B.A. with Physics and Mathematics as elective subjects; provided they have worked on their respective posts for a minimum period of three years.

5. The learned Counsel for the Petitioner has argued that under Rule 9(P) a Junior Analyst as also an Inspector is eligible for promotion as Head Analyst. In this situation it is unnecessary to promote the Petitioner as Inspector. I see no force in this contention. The Petitioner cannot decline promotion as an Inspector by way of right merely because he will continue to remain eligible for promotion as Head Analyst by remaining a Junior Analyst.

6. The learned Counsel for the Respondent has argued that the duties of an Inspector cover a wide range of responsibility than that of a Junior Analyst. Similarly, Head Analyst has supervisory functions which have not been given to the Junior Analysts. An Inspector is eligible both for the posts of Head Analyst and Assistant Food and Supplies Officer. An Inspector normally gets promoted as Assistant Food and Supplies Officer. Similarly Head Analysts are also eligible for promotion as Assistant Food and Supplies Officers. One category of employees of the department is not insulated from another nor is the work so different in nature that an employee is unable to perform the duties attached to different posts. The scheme of the Rules is to provide wider channel of promotion in this manner. These contentions are primarily based on the Rules and the permissible practice followed in the department. The various categories of posts from which the channel of promotion is Head Analyst or Assistant Food and Supplies Officer are integrated with each other. The duties of one category of personnel cannot be the same as that of another. The object, however, is to give the employees varied

experience of all the branches of the department which could prove useful when the promotion is made as Head Analyst or Assistant Food and Supplies Officer.

7. The learned Counsel for the Petitioner has argued that the revised scale of pay of a Junior Analyst is higher than that of an Inspector with the result that the so-called promotion of the Petitioner as Inspector would in fact amount to his demotion. This contention is factually incorrect. In the Rules the scales of pay of various posts are given under Appendix "A". The scale of pay thereunder of an Inspector is higher than that of a Junior Analyst. The revised pay scale of the post of Inspector is also higher than that of Junior Analyst.

8. Another point argued by the learned Counsel for the Petitioner is that in the promotion order (P. 2) of the Petitioner it is specifically mentioned that the promotion will not confer any right to claim higher seniority and the decision regarding seniority will be taken later on. These remarks made in P. 2 would render the promotion of the Petitioner ad hoc which can be declined by him. There is no merit in this contention as well. The Petitioner being a Junior Analyst could be promoted as an Inspector under the Rules. The promotion can also be made of those junior in the seniority list in the exigencies of service. Such promotions do not accelerate the seniority of the promotees in the basic cadre. It is by way of abundant caution that it has been clarified in order P. 2 that the promotees would not be entitled to claim seniority on the basis of promotion being allowed to them. This clarification, would not entitle the Petitioner to decline promotion as of right.

9. The learned Counsel for the Petitioner has argued that the Petitioner has a right to forego the promotion being given to him and it cannot be thrust upon him against his wishes. I do not agree. The benefit of promotion does not accrue to the promotee alone. The resultant advantage also accrues to the department as well. The promotee, therefore, cannot unilaterally decline to accept promotion.

10. In view of discussion above, the writ fails and is dismissed with No. order, as to cost.