
(2003) 02 P&H CK 0247
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3135 of 88

Ravi Kumar

APPELLANT

Vs

Food Corporation of India

RESPONDENT

Date of Decision : 19-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2003) 02 P&H CK 0247

Hon'ble Judges : M.L. Singhal, J

Bench : Single Bench

Advocate : Ravinder Chopra and Naresh Manchanda, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

M.L. Singhal, J.—Petitioner was appointed Assistant Grade III(D) in the Food Corporation of India (hereinafter referred to as the Corporation) where he joined on 13.12.1976. He was posted at Food Storage Depot Taraori. In July 1976, he was posted as Assistant Grade III(D) in Food Storage Depot at Karnal and was entrusted with the job of maintaining the Depot Accounts including stock accounts, Muster Rolls, Ledger Accounts as well as compilation of various account returns and cash work etc. etc. Copies of efficiency certificates issued by the authorities are annexed as Annexures P-1 and P-2. In the year 1977, the Corporation with the approval of the Central govt., had decided for the formation of Accounts Cadre from the level of Assistant Grade III and upwards with effect from 18th January, 1977 initially by transferring the officials from the general administration cadre. Options were called from the officials possessing a degree in commerce, maths or statistics for transfer to the accounts cadre. Annexure P-3 is the copy of the circular bearing No. 1/15/75 EP dated 2.2.1977. It is specifically mentioned in Annexure P-3 that the officials on their transfer to the accounts cadre would be allowed to count their past service in the grades concerned for seniority in terms of Regulation 16(7) of the Staff Regulation.

Subsequently, the condition that the officials should be holding degree in commerce, maths or statistics was also relaxed vide circular letter Annexure P-4. According to this modification, all the Corporation employees already working in the Finance Division and had proved their proficiency in their work were made eligible for transfer to accounts cadre irrespective of the fact whether they were qualified or not. Thereafter, the Staff Regulation was amended vide Gazette of India Notification No. 1-15/75 EP dated 17.11.1977 with retrospective effect from 18.1.1977, which is to this effect:-

"Initially, Assistant Grade III of all cadres possessing the prescribed qualifications and Assistant Grade III working in the Accounts Wing who are considered to be competent and capable and possess an aptitude for accounts work would be transferred to the Accounts Cadre on the basis of the option. The Assistant Grade III of the Accounts Wing would be transferred provided they have been put through an intensive training course."

2. A copy of the notification is annexed as Annexure P-5. Petitioner exercised his option for his permanent absorption to the accounts cadre as he was eligible under the aforesaid policy decision. He along with others was directed to attend the interview on 28.1.1978 in the District Office, Karnal vide memo No. Admn/Option/77/24206 dated 24.1.1978, copy of which is at Annexure P-6. He was interviewed by the screening committee and was selected for permanent absorption in the accounts cadre. Despite the recommendation of the screening committee, coupled with the fact that he was eligible for permanent absorption in the accounts cadre by virtue of policy decisions Annexures P-3 and P-4 and also in view of the Gazette Notification Annexure P-5, orders for his permanent absorption in the accounts cadre were not issued by the authorities. He was ultimately informed by the authorities that his name was not considered for inclusion in the accounts cadre because he was not working in the accounts section at the time of screening. He was permanently absorbed in the accounts cadre with effect from 1.2.1985 vide office order dated 5.2.1985 Annexure P-9.

3. Through this writ petition, the petitioner has prayed for the issuance of writ in the nature of mandamus directing the respondents to allow seniority and other consequential benefits to him in accordance with the policy decisions Annexures P-3 and P-4 and Gazette Notification Annexure P-5. Petitioner's contention is that when he was absorbed permanently in the accounts cadre, the service rendered by him as Assistant Grade III in the Corporation should not have been obliterated. Services previously rendered by him as Assistant Grade III(D) in the Corporation since 13.12.1976 had to be counted on his permanent absorption in the accounts cadre of the Corporation.

4. Learned counsel for the petitioner submits that the services rendered by him as Assistant Grade III(D) in the Corporation since 13.12.1976 could not have been obliterated on his permanent absorption into the accounts cadre of the Corporation. In support of this submission, he seeks support from *Kartar Singh and Ors. v. State of Punjab* and Ors. 1989(4) SLR 340, which is Full Bench

Judgment of this Court, where it has been held that "absorption has the effect of sucking and imbibing in to what is originally existing. On absorption thus an employee becomes part and parcel of the department absorbing him and partakes the same colour and character of the existing employees of the department, classified as promotees, direct appointees or transferees on the loss of his identity. If this is understood in this perspective, there is no difficulty in assigning the absorbees seniority."

5. In this view of the matter, this writ petition is allowed and the respondents are directed to count the petitioner's service rendered by him from 13.12.1976 onwards as Assistant Grade III(d) in the Corporation in the accounts cadre of the Corporation with all consequential benefits.