***IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH.***

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CWP No.8480 of 2014.

Girwar Singh -Petitioner.

Versus

State of Haryana and Ors. —Respondents.

WRITTEN STATEMENT BY A Shamsher Singh,Chief Manager (P&A), Haryana Seeds Development Corporation Limited, Panchkula on behalf of respondents.

***RESPECTFULLY SHWOETH:-***

***PRELIMINARY SUBMISSIONS:***

*That after forwarding the name of the petitioner by the Employment Exchange, he was appointed by the answering respondents to the post of peon on adhoc basis vide dt.30.1.1984* ***(P-1)*** *and he joined the post of peon w.e.f. 6.2.1984 and just after three months he was offered the post of Salesman on adhoc basis and he joined the said post on dt. 8.10.1986 (P-2) Thereafter, his services were regularized as salesman along with other staff employees vide order dt. 3.4.1997 and thereafter on dt. 24.7.2013 (P-3) he was promoted to the post of Marketing Assistant along with other salesman. This promotion of the petitioner on the post of Marketing Asstt. was made inadvertently otherwise he was not entitled to this promotion. These promotion were made from the unconfirmed seniority list which was prepared at Head Quarter which is not confirmed till date. In the unconfirmed seniority list of salesman, Sr. No.1 to 17 were promoted to the post of Marketing Assistant from the post of salesman and their services were also regularized in Sep.1988, except no. 3 ( present petitioner ) petitioner was shown at no. 3 in the said unconfirmed seniority list and his services were regularized on dt. 3.4.1997 (P-3) but by inadvertent mistake, in the unconfirmed seniority list (R-1) his regular service was wrongly shown from 8.10.1986 where as, he joined the post of salesman on adhoc basis on date i.e. 8.10.1986 which facts admitted by the petitioner . When, this fact came in knowledge then answering respondents withdraw promotion order dt. 24.7.2013 of Marketing Assistant of the petitioner vide order dt. 4.4.2014 (P-7) and his pay was refixed accordingly.* Now , it settled law that adhoc service is not counted for seniority as well as ACP Scale . A copy of the unconfirmed seniority list of salesman is being attached herewith as Anexure R-1.

So, the mistake committed inadvertently was rectified vide order dated 4.4.2014 ( Annexure P-7 and 8 ). It is settled law of the land that if any mistake crept in inadvertently or any act of omission / commission could be rectified at any stage and the illegality could not be allowed to be perpetuated . Hence, present petition filed by the petitioner is not tenable in the eye of law. So, the petition deserve to be dismissed on this score.

*ON MARITS-*

1. That the contents of para no.1 of the writ petition is correct to the extent that the petitioner is resident of State of Haryana. Rest of the contents of this para as stated are wrong and incorrect, hence denied. The petitioner is not competent to invoke extra ordinary writ jurisdiction of this Hon’ble court.

2. That the contents of para no.2 of the petition are matter of record, hence needs no reply.

3. That the contents of para No.3 of the writ petition are matter of record, hence needs no reply.

4. That the contents of para no.4 of the petition as stated are wrong and incorrect, hence denied. Further it is correct that his service was regularized as salesman along with other staff vide order dated 3.4.1997.

5. That the contents of para no.10 of the petition are misleading and hence denied. It is submitted that ACP scale was granted to the regular employee who have completed 10 years regular service not 10 years of ad hoc service because Now , it settled law that adhoc service is not counted for seniority as well as ACP Scale .No junior person to the petitioner is getting this benefit.

6. That the contents of para no.6 of the petition are admitted that petitioner was promoted to the post of Marketing Assistant inadvertently. In reply thereto , it is respectfully submitted that the contents at para of Preliminary Objections are reiterated and not repeated for the sake of brevity.

7. That the contents of para no.7 of the petition are matter of record, hence needs no reply.

8. That the contents of para no.8 of the petition as stated are wrong and incorrect, hence denied. In reply thereto , it is respectfully submitted that no junior person is getting higher pay then the petitioner. It is submitted that petitioner,s services were regularized on dt. 3.4.1997 where as services of the Mahipal and Adrish Khan were regularized on 30.9.1988 (R-1). It is correct that in the promotion order of the petitioner, he was shown at sr. no 2 where as Mahipal and Adrish Khan were shown in the said order at sr. no. 4 and 10. It is further submitted that promotion order of the petitioner was issued for the post of Marketing Assistant inadvertently.

9. That the contents of para no.9 of the petition are denied for want of knowledge.

10. That the contents of para no.10 of the petition are correct. Detailed reply has been given in the foregoing paragraphs.

11. That in reply to para no.11 of the petition along with its sub para no.( A to E ) it is respectfully submitted that the contents at para no.1 of Preliminary Objections are reiterated and not repeated for the sake of brevity.

12. That the contents of para No.12 of the writ petition as stated are wrong and incorrect, hence denied. No law points are involved in this case to invoke the extraordinary jurisdiction of the Hon’ble High Court.

13. That the contents of para No.13 of the writ petition are wrong and incorrect, hence denied. The petitioner is not competent to file the present writ petition.

14. That the contents of para No.14 denied for want of knowledge.

Prayer para of the writ petition along with sub-para No. A) to H ) are wrong and hence denied. The petitioner is not entitled for any relief under this false petition. The present petition filed by the petitioner deserves to be dismissed being devoid of merits.

In view of the submissions made above, it is respectfully prayed that the present writ petition may kindly be dismissed with costs being devoid of any merits.

***CHANDIGARH Shamser Singh, Chief***

***Dt: Manager (P&A), Haryana Seeds Development Corporation Limited, Panchkula on behalf of respondents***

THROUGH COUNSEL

***( SURESH AHLAWAT )***

***ADVOCATE***

***COUNSEL FOR RESPONDENTs***

**VERIFICATION:-**

Verified that the contents of para no.1 to 3 of Preliminary Submissions as well as Paras 1 to 14 of the written statement are true and correct to my knowledge and information derived from the official record. No part of it is false and nothing has been concealed therein.

***CHANDIGARH Shamsher Singh, ChiefManager (P&A), Haryana Seeds Devel.Limited, Panchkula on behalf of respondents***

***IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH.***

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CWP No.8480 of 2014.

Ramesh Chand And Others

-Petitioners.

Versus

State of Haryana and Ors.

—Respondents.

**I N D E X**

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| --- | --- | --- | --- | --- |
| Sr.No | Particulars | Dated | Pages | Court fee |
| 1. | Written statement on behalf of respondent no.2 | 24.2.2015 | 1-6 | - |
| 2. | Annexure R-1/2 | 27.3.1974 | 7-10 |  |
| 3. | Power of Attorney already on record |  |  |  |

***CHANDIGARH (SURESH AHLAWAT)***

***DT: 24.2.2015 ADVOCATE***

***COUNSEL FOR RESPODENT No. 2***

***IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH.***

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CWP No.28284 of 2013.

Ramesh Chand And Others -Petitioners.

Versus

State of Haryana and Ors. —Respondents.

WRITTEN STATEMENT BY A Shamsher Singh,Chief Manager (P&A), Haryana Seeds Development Corporation Limited, Panchkula on behalf of respondent no .2.

***RESPECTFULLY SHWOETH:-***

***PRELIMINARY SUBMISSIONS:***

***1. That the petitioners were promoted from the post of peon to the post of clerk vide their respective promotion orders P-2 to P-4 and condition no.3 of the orders in unambiguous terms spell out that in any case the petitioners /promoted shall have to pass the type test with in one year from the date of promotion . Undisputedly the petitioners were promoted in the year of 2009-10 and till date they have not passed the type test i.e. the condition required for getting annual increment .So, they are bound by the conditions of the promotion order as on the strength of that order only they are working as clerk. Moreover, the law of estoppels operates them. And further***

2. That as per instructions of the State of Haryana issued by the Chief Secretary vide no. 1411-2 GSI /6961 dated 27.3.1974 , knowledge of typing in Hindi or English at the speed 25 & 30 words per minute respectively would be necessary qualification for the post of Clerk and to compliance of these instructions the clause was mentioned at Sr. No. 3 in the promotion order of these petitioners that they will pass type test with in a period of one year otherwise annual increment will not be granted which is annexed herewith **Annexure R-1** for kind perusal of this Hon,ble High Court.

***ON MARITS-***

1. That the contents of para no.1 of the writ petition is correct to the extent that the petitioner is resident of State of Haryana. Rest of the contents of this para as stated are wrong and incorrect, hence denied. The petitioner is not competent to invoke extra ordinary writ jurisdiction of this Hon’ble court.

2. That the contents of para no.2 of the petition are matter of record, hence needs no reply.

3. That the contents of para No.3 of the writ petition are matter of record, hence needs no reply.

4. That the contents of para no.4 of the petition are admitted to that extent that there was no service rules of the Corporation prior to the year 1989 and the Corporation framed its own service rules in 1989. In reply thereto , it is respectfully submitted that as per instructions of the State of Haryana issued by the Chief Secretary vide no. 1411-2 GSI /6961 dated 27.3.1974 ,knowledge of typing in Hindi or English at the speed 25 & 30 words per minute respectively would be necessary qualification for the post of Clerk and to compliance of these instructions the clause was mentioned at Sr. No. 3 in the promotion order of these petitioners that they will pass type test with in a period of one year otherwise annual increment will not be granted but after passing the period of 5-6 years they could not clear the type test resultantly increment of these petitioners has not been granted by the Corporation. .In this regard , it is informed that when petitioners have been given so many chances to appear in the typing test conducted by the Corporation but they failed to clear the type test every time . As and when type test will be cleared by the petitioners the annual increate will be granted to the petitioners accordingly.

5. That the contents of para no.5 of the petition are matter of record, hence needs no reply.

6.&7 That detailed reply of these paras is given in forgoing para i.e. in para no 1 & 2 of the primarily objections and further in para no.5

8. That the contents of para no.8 of the petition are matter of record, hence needs no reply.

9. That detailed reply, it is respectfully submitted that the contents at para of Preliminary Objections are reiterated and not repeated for the sake of brevity.

10 . That the contents of para no.10 of the petition are admitted to that extent that petitioners served the legal notice to the answering respondent and reply has been given by the Chief Manager (P&A) of the answering respondent who is the competent authority to give the answer/reply of the any representation/legal notice on behalf of the Managing Director of the Corporation in conducting the personal administration of the Corporation .

11. Reply to this para that the order Annexure P-1 passed by the answering respondent is well reasoned order and there is no violation of Article 14 & 16 of the Constitution of India.

And along with its sub para no.( i ) it is respectfully submitted that the contents at para no.1&2 of Preliminary Objections are reiterated and not repeated for the sake of brevity

and further sub para no. (ii) of this para , that the order passed by the answering respondent with in jurisdiction , well reasoned order and according to instruction/policy of the Corporation.

And further sub para no. (iii) of this para of petition is matter of record, hence needs no reply.

12. That the contents of para No.12 of the writ petition as stated are wrong and incorrect, hence denied. No law points are involved in this case to invoke the extraordinary jurisdiction of the Hon’ble High Court.

13. That the contents of para No.13 of the writ petition are wrong and incorrect, hence denied. The petitioner is not competent to file the present writ petition.

14. That the contents of para No.14 denied for want of knowledge.

Prayer paras of the writ petition along with sub-para no. ( i to vi ) are wrong and hence denied. The petitioner is not entitled for any relief under this false petition. The present petition filed by the petitioners deserves to be dismissed being devoid of merits.

In view of the submissions made above, it is respectfully prayed that the present writ petition may kindly be dismissed with costs being devoid of any merits.

***CHANDIGARH Shamser Singh, Chief***

***Dt: Manager (P&A), Haryana Seeds Development Corporation Limited, Panchkula on behalf of respondentno.2***

THROUGH COUNSEL

***( SURESH AHLAWAT )***

***ADVOCATE***

***COUNSEL FOR RESPONDENT No.2***

**VERIFICATION:-**

Verified that the contents of para no.1 to 2 of Preliminary Submissions as well as Paras 1 to 14 of the written statement are true and correct to my knowledge and information derived from the official record. No part of it is false and nothing has been concealed therein.

***CHANDIGARH Shamsher Singh, ChiefManager (P&A), Haryana Seeds Devel.Limited, Panchkula on behalf of respondent no.2***