

Supreme Court of India

Gurjit Singh Sahota vs State Of Punjab And Anr. on 11 August, 1975

Equivalent citations: AIR 1975 SC 1915, 1995 CriLJ 3644, 1975 LabIC 1451, (1975) 4 SCC 687, 1975 (7) UJ 616 SC

Author: K Mathew

Bench: A Ray, K Mathew, S M Ali, V K Iyer

JUDGMENT K.K. Mathew, J.

1. The appellant filed a writ petition before the High Court of Punjab and Haryana for issue of a writ of certiorari or other appropriate writ or direction quashing an order reverting him from the post of Divisional Soil Conservation Officer (Class I ) to the post of Assistant Soil Conservation Officer (Class II). The High Court dismissed the petition and this appeal, by special leave, is from that order.

2. The appellant was appointed as Assistant Soil Conservation Officer (Class II) on 14-9-1962. When the appellant was working as Class II officer, the Government confirmed 5 Class II officers on 16-9-1968. The appellant was not one among them. But the order of confirmation stated that one post was reserved for the appellant for his being confirmed when found suitable. One Mehtab Singh who was a junior to the appellant in the post of Assistant Soil Conservation Officer was confirmed with effect from 10-6-1968.

3. The Government informed the Public Service Commission on 1-8-1969 that Mehtab Singh was eligible for promotion to the post of Divisional Soil Conservation Officer (Class I) and he was promoted to that post. On 16-6-1971, the appellant was promoted as Divisional Soil Conservation Officer (Class I) on ad hoc basis. Thereafter four of the juniors of the appellant were also promoted to the post of Divisional Soil Conservation Officer (Class I ) on ad hoc basis. The appellant was confirmed as Assistant Soil Conservation Officer (Class II) on 22-9-1971 with retrospective effect from 9-6-1968. Subsequently, the Government informed the Public Service Commission that as the appellant was confirmed, he became senior to Shri Mehtab Singh and therefore, the Government had decided to promote the appellant as Class I Officer on regular basis. The Public Service Commission disagreed with the proposal of the Government on the basis that the appellant's confirmation with effect from a date earlier than that of Mehtab Singh was not justified. The Commission also gave approval to the regularisation of Shri Mehtab Singh's promotion. On 16-8-1974, the appellant was served with an order stating that he had been reverted from the post of Divisional Soil Conservation Officer to the post of Assistant Soil Conservation Officer. As already stated, it was to quash this order that the appellant filed the writ petition.

4. There is no dispute that when the appellant was promoted on ad hoc basis to the Class I post, his record of service was unsatisfactory and it was for this reason that the Public Service Commission advised that he should be reverted and that the Government passed the order reverting him to the Class II post.

5. The appellant's contention is that when four of his juniors were promoted on ad hoc basis as Divisional Soil Conservation Officers (Class I ), his record of service in the Class I post on the basis

of adhoc promotion should have been taken into consideration in adjudging whether he was eligible for promotion to Class I post in preference to any one of them.

6. In other words, the argument was that, although he had been found unsuitable for promotion on the date when he was promoted to Class I post on ad hoc basis, that was no reason for not considering his record of service in the Class I post when his juniors were promoted to Class I posts on ad hoc basis.

7. The High Court found that since the appellant was not reverted by way of punishment and as the Public Service Commission did not adjudge him suitable for the post, the order of reversion was not open to challenge. But the Court, however, observed:

It will be open to the Government to refer the case of the petitioner to the Public Service Commission specifically for advice as to his suitability for the post of Divisional Soil Conservation Officer and thereafter to act in accordance with law.

8. We think that the grievance of the appellant to the extent that his record of service in the Class I post should have been considered when his juniors were promoted to Class I Posts is legitimate. It is true that when the appellant was promoted to Class I post on ad hoc basis, his record of service in Class II post did not justify his promotion and that was the reason why he was ordered to be reverted. But that is reason why, when his juniors were subsequently promoted to Class I posts, the case of the appellant for promotion to Class I post should not have been considered on the basis of his service in the Class I post, though his adhoc promotion to that post was subsequently found to be not justified. If, on the basis of the subsequent record of his service, the appellant was entitled to be promoted to Class I post in preference to any one of his four juniors, there was no justification for the order reverting him to Class II service.

9. We would, therefore, direct the Public Service Commission to consider the record of service of the appellant in Class I post on the basis of his ad hoc promotion to that post and see whether he was eligible for promotion to that class of post in preference to any one of his four juniors who have been promoted to Class I posts and tender the proper advice to the Government.

10. We quash the order of reversion and allow the appellant to continue to in Class I post until the Government passes a fresh order on the basis of the advice to be given by the Public Service Commission. The appeal is allowed to the above extent but is dismissed in other respects. There will be no order as to costs.