

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

SWP No. 1966/2011

Pronounced on:- 08.06.2020

Ravinder Kumar BhanPetitioner(s)

Through: Petitioner present in person.

vs.

State of J&K and othersRespondent(s)

Through: None

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE

JUDGMENT

01. The petitioner was working as a Supervisor in Pesticides Distribution Wing of the Jammu and Kashmir, State Agro Industries Development Corporation and was placed in the pay scale of Rs. 1350-50-1500-EB-75-2400 vide order No. Agro/Adm/CJ/(120)/AIDCL dated 06.12.1996. This order was challenged by Mohammad Sami Jan, Ved Prakash Chowdhary, Mohammad Sultan Mir and Mohd. Yousuf Dar, in a writ petition bearing SWP No. 5578/1996. On the assurance given by respondents-Corporation that they would consider the matter afresh, this petition was withdrawn.

02. The respondents vide order No. AGRO/ADM (73)/AIDCL of 2005 dated 21.10.2005, rescinded the earlier order dated 06.12.1996. Aggrieved of this order dated 21.10.2005, the petitioner questioned the same by filing a writ petition bearing SWP No. 1535/2005. This petition was disposed of vide order dated 08.07.2010 by holding as under:

“Order No. AGRO/ADM/(73)/AIDCL of 2005 dated 21.10.2005 issued by the Jammu and Kashmir State Agro

Industries Development Corporation Limited is, therefore, set aside and quashed, leaving the Corporation, however, free to pass such orders, as to the petitioner's entitlement or otherwise to the Supervisor's grade, as warranted under law, after complying with the principles of Natural Justice."

03. The respondents in compliance to order of this Court, considered the entitlement of petitioner to the grade of Supervisor and issued another order dated 20.08.2011, which reads as under:

".....Now therefore, the claim of Sh. R. K. Bhan for the post of Supervisor is rejected at this stage and he will be considered for promotion as Supervisor alongwith other eligible officials senior to him as and when the posts of Supervisor become available and are filled by the Corporation as per rules"

04. Petitioner, thus, is aggrieved of the aforesaid order, vide which his claim for Supervisor's grade has been rejected. It is his case that he was adjusted as a Supervisor in the P.P. Division of the Distribution and Sales of Pesticides/Fungicides Wing of the Corporation and for the last 26 years, he is performing his duties as Supervisor. Although, similarly situated persons have been granted the grade of Supervisor, but the same is denied to him.

05. In their objections, it is submitted by the respondents that petitioner was promoted to the post of Supervisor after the recommendations of Grievance Committee constituted by the Corporation, but the order was stayed on a petition filed by his senior colleagues. These senior colleagues have approached the Corporation to settle their cases, and have also withdrawn their petition. The order was rescinded only to consider the promotion cases of all the aggrieved senior employees as Supervisors.

06. An application was filed by the petitioner on 02.08.2018 for placing on record an order No. Agro/Adm/(135)/AIDCL of 2017 dated 27.05.2017 and compliance report submitted on behalf of Managing Director, J&K State Agro Industries Corporation Ltd. in contempt petition No. 642/2017 in SWP No. 1345/2005 titled, 'Ghulam Nabi Dhobi and another V. State of J&K. Vide order dated 07.09.2018, these documents obtained by the petitioner under Right to Information Act, were taken on record.

07. Learned counsel for the petitioner submits that in compliance report filed on behalf of the Corporation in contempt petition, the respondents have admitted that petitioner was entitled to the promotion as Supervisor retrospectively. Para 4 and 5 of the compliance report reads as under:

“4. That in compliance to the orders passed by the Hon’ble Court, the matter has been perused and examined by the answering respondent and on the examination of the matter, the answering respondent found that an identical matter came up before the Jammu wing of this Hon’ble Court in which the Hon’ble High Court at Jammu has passed the judgment in the case of Sh. R. K. Bhan and in compliance to the said judgment, a committee has been constituted for settlement of the case. The said committee after examination of the record, came to the conclusion that officials including Sh. R. K. Bhan who were dropped earlier, should also be given similar treatment by promoting him as Supervisor, retrospectively. AS such, the judgment has been implemented in letter and spirit in case of R. K. Bhan.

5. That since the matter in hand is identical and is of similar nature and the petitioner is similarly situated as that of Sh. R. K. Bhan. As such the matter has been referred to the aforesaid committee for compliance of order mentioned supra. The said committee after examining the record found that the case of the petitioner is similarly situated to that of R. K. Bhan and is

genuine as such, recommends petitioner's promotion as Supervisor retrospectively."

08. Vide order No. Agro/Adm/(135)/AIDCL of 2017 dated 27.05.2017, a Committee was constituted for settlement of the case of the petitioner. The Committee examined the case of the petitioner and recommended as under:

".....In view of the above the committee reached to the conclusion that the case is as simple as anything when all the officials who worked in the Distribution of sales of pesticides/fungicides wing P P Division were promoted to the post of supervisor retrospectively we may also place the aggrieved retiree Sh. R K Bhan in the grade of supervisor retrospectively thus justice is met.

Submitted for consideration and orders please"

The respondents in the contempt petition also sought time to comply the same

09. In view of the recommendations of the Committee constituted by the respondents, this petition is allowed and order dated 20.08.2011 is quashed. Petitioner is entitled to the grade and other benefits of the post of Supervisor retrospectively, in terms of the recommendations of the Committee constituted for settling the case of the petitioner.

10. Disposed of.

(Sindhu Sharma)
Judge

Jammu
08.06.2020
SUNIL-II

Whether the order is speaking:	Yes
Whether the order is reportable:	Yes/No