

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CWP No.12608 of 2015
Date of decision: 15.07.2015

Parveen Kumar and another ... Petitioners

Versus
State of Punjab and another ... Respondents
2. CWP No.12609 of 2015

Ashwani Kumar and others ... Petitioners

Versus
State of Punjab and another ... Respondents
3. CWP No.12610 of 2015

Jagtar Singh and others ... Petitioners

Versus
State of Punjab and another ... Respondents
4. CWP No.12611 of 2015

Lachman Dass and another ... Petitioners

Versus
State of Punjab and another ... Respondents
5. CWP No.12653 of 2015

Surjit Kumar ... Petitioner

Versus
State of Punjab and another ... Respondents
6. CWP No.12658 of 2015

Vijay Kumar ... Petitioner

Versus
State of Punjab and another ... Respondents

7. CWP No.12894 of 2015
Mangat Singh ... Petitioner
Versus
State of Punjab and another ... Respondents
8. CWP No.12895 of 2015
Ashwani Kumar ... Petitioner
Versus
State of Punjab and another ... Respondents
9. CWP No.12896 of 2015
Prem Kumar ... Petitioner
Versus
State of Punjab and another ... Respondents
10. CWP No.12897 of 2015
Ashwani Kumar and others ... Petitioners
Versus
State of Punjab and another ... Respondents
11. CWP No.12661 of 2015
Dayal Chand ... Petitioner
Versus
State of Punjab and others ... Respondents
12. CWP No.12682 of 2015
Sham Lal and others ... Petitioners
Versus
State of Punjab and another ... Respondents

13. CWP No.12716 of 2015
Deepak Batra and others ... Petitioners
Versus
State of Punjab and another ... Respondents
14. CWP No.12717 of 2015
Ram Sharma ... Petitioner
Versus
State of Punjab and another ... Respondents
15. CWP No.12718 of 2015
Balwinder Kumar and others ... Petitioners
Versus
State of Punjab and another ... Respondents
16. CWP No.12719 of 2015
Vijay Kumar ... Petitioner
Versus
State of Punjab and others ... Respondents
17. CWP No.12720 of 2015
Shukal Chand ... Petitioner
Versus
State of Punjab and another ... Respondents
18. CWP No.12930 of 2015
Mohinder Pal ... Petitioner
Versus
State of Punjab and another ... Respondents

19. CWP No.13911 of 2015
- Harjiwan Singh ... Petitioner
- Versus
- State of Punjab and another ... Respondents
20. CWP No.12659 of 2015
- Baldev Singh ... Petitioner
- Versus
- State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Puneet Gupta, Advocate;
 Mr. Abhinav Gupta, Advocate;
 Mr. GP Vashist, Advocate;
 Mr. Hemender Goswami, Advocate
 Mr. VK Sharma, Advocate
 Mr. Sanjeev Sharma, Advocate
 Mr. RS Manhas, Advocate
 Mr. PS Khurana, Advocate and
 Mr. Tribhawan Singla, Advocate for the petitioners.
 Mr. Rakesh Verma, Sr. DAG, Punjab and
 Mr. Harsimran Singh Sethi, Addl. AG, Punjab with
 Mr. Satish Kumar Gupta, SE, PWD B&R.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Vide this order the above indicated petitions are being disposed of, as the issue involved is common in all. Facts are being culled out from Civil Writ Petition No.12608 of 2015.

A writ in the nature of certiorari is prayed for, so as to quash the order dated 17.06.2015, vide which the order of

promotion of the petitioner to the post of Junior Engineer (Civil) has been withdrawn and he has since been reverted to his original substantive post. Briefly, promotion to the post of Junior Engineer (Civil) is governed by the provisions of Punjab Department of Public Works (Buildings and Roads) Junior Engineer (Class-III) Service (1st amendment) Rules, 2008 (hereinafter would be referred to as 2008 Rules). Rule 8 of the 2008 Rules provides the method of appointment and qualifications and the same reads as thus:

“Rule 8. Method of appointment and qualifications:

(1) All appointments to service shall be made in the following manner, namely:-

(A) in case of Junior Engineers in Civil Wing:-

(a) Seventy five percent by direct appointment from amongst the candidates who possess a Diploma in Civil Engineering of recognized institution.

(b) Twenty five percent by promotion as under:-

(i) Fifteen percent from amongst the following categories of employees working under the control of the Chief Engineer and who possesses qualifications specified in sub-clause (a) above in following ratio, namely:-

(a). Two percent out of Road Inspectors.

(b). Six percent out of Work Inspectors, Work Munshis/Mistries, and Surveyors.

- (c). Four percent out of Draftsman and Junior Draftsman.
- (d). Two percent out of Mortermates; and
- (e). One percent out of Project Junior Engineers.
- (ii) Ten percent from amongst the following categories of employees working under the control of Chief Engineer, who have completed ten years of service as such and have passed the qualifying examination specified in Rule 9 in the following ratio, namely:
 - (a). Four percent out of Road Inspectors.
 - (b). Four percent out of Work Inspectors, Work Munshis/Mistries, and Surveyors and;
 - (c). Two percent out of Mortermates; and
 - (d). One percent out of Project Junior Engineer.”

As envisage under Rule 9 of the 2008 Rules, the petitioner had appeared and qualified the departmental examination on 13.10.2009, conducted by the department, and thus became eligible for promotion as Junior Engineer (Civil) not only under 15% quota for diploma-holders but also under the 10% quota for the candidates who had qualified the departmental examination. Pursuant to an order dated 28.01.2013 (Annexure P1), the petitioner was promoted as Junior Engineer (Civil) on ad hoc basis, subject to the conditions enumerated therein. In fact, numerous promotions to the post of Junior Engineer (Civil) were ordered from amongst the different categories during this period under the

25% quota for appointment by way of promotions i.e. 15% for diploma-holders and 10% for those, who had qualified the departmental examination. However, vide order being assailed dated 17.06.2015 (Annexure P7), preceded by a show cause notice and of course soliciting response of the petitioner thereto, the promotion granted to him as Junior Engineer (Civil) was withdrawn and consequently, the petitioner was reverted to the feeder cadre. An analysis of the said order (Annexure P7) reveals that post promotion of the petitioner, certain employees being dissatisfied, as they were not promoted as Junior Engineer (Civil), had approached this court vide Civil Writ Petition No.26097 of 2013, titled Ashok Kumar v. State of Punjab and others and other connected writ petitions. And, had assailed the promotions of the petitioners in these matters. And, while preparing the written statement in those petitions, it transpired that the petitioners were afforded promotion on 28.01.2013 pursuant to the wrong information provided by the then dealing staff of the Establishment Section-II and their promotions were beyond the prescribed quota in the feeder cadre. Under the Service Rules, 1993, the number of permanent posts of Junior Engineer (Civil) were 679. The number of temporary posts were 279. Thus, the total number of posts in 1993 was 958. Since, the number of temporary posts as per the record has been decreasing continuously, in the financial year 2012-13

number of temporary posts came down to 114 and in the financial year 2013-14 it further came down to 109. Therefore, the total number of posts of Junior Engineer (Civil) were 788 i.e. 679+109. And thus, the quota for direct recruitment for the year 2013-14 was liable to be determined against 788 posts. Whereas, on the contrary, it is maintained in unison by the petitioners that they were promoted against the posts meant for the specific quota. And their promotions as Junior Engineer (Civil) were in sync with the prescribed quota in their respective categories. Petitioners being eligible were promoted as Junior Engineers. It is asserted that the petitioner(s) in response to the show cause notice had duly crystallized this position and raised certain issues, which remained unaddressed while passing the order of reversion.

I had heard the matter at some length, and during the course of hearing, a consensus emerged between the learned counsel for the parties that the petitions in hand could be disposed of on the following terms:

- i) The petitioners would submit their precise objections, as regards their reversion from the post of Junior Engineer, appended therewith the necessary material in support of their claims to the department within three weeks from the date of this order and not thereafter;

- ii) Within a further period of two weeks post receipt of objections, submitted by the petitioners, the department shall notify the dates, vide individual notices to the petitioners, in each of the category, as regards an opportunity of personal hearing;
- iii) Process of personal hearing shall be concluded within a further period of two weeks thereafter;
- iv) And once that process is over, within four weeks thereafter, the department shall pass appropriate orders, strictly in accordance with law. Needless to assert, comprehensive orders shall be passed deciding each of the issue raised and assigning reasons in support of the decision arrived at.

Mr. Sethi, learned Additional Advocate General, Punjab, on instructions, submits that as this court on 24.06.2015, in CWP No.12608 of 2015, had ordered status quo, the position prevalent on the said date i.e. 24.06.2015 shall be maintained till the objections are decided and a formal order in this regard is passed. He maintains that in case the objections submitted by the petitioners are accepted and the department reaches a conclusion that their promotions in the first instance were in sync with the rules or within their respective quotas, the order of reversion dated

17.06.2015 (Annexure P7) shall be withdrawn. And of course, the promotion afforded to the petitioners as Junior Engineer (Civil) shall stand restored with effect from the date it was initially ordered.

Learned counsel for the parties, in unison, express their agreement and consent to the course as set out above.

Accordingly, petitions are disposed of in the aforesaid terms.

July 15 2015
Rajan

(Arun Palli)
Judge